PEACE OF MIND + **food for thought**

Dear Friends,

We have much to be grateful for as we start to close out a busy and exciting year for Wealthaven and head into this holiday season! With the addition of Susan Hartley Moss in the summer, we have expanded our senior team and increased the depth of expertise in trusts, family offices, and foundations. I am particularly grateful for Susan's partnership, patience and thoughtful approach to our advisory work. We are also thankful for the insights we are able to give and receive in our daily work with clients. Truly, each interaction provides new perspectives on human behavior, markets and mindsets. The Fall always brings conferences and in the last few weeks, we have presented on a number of topics and had some great discussions with other thought leaders which will shape our writing and advisory work into 2017. Stay tuned!

We wish you much joy in the coming holidays and hope you are able to find time to reflect, give thanks and savor life's gifts.

IN THIS ISSUE OF THE **wealthaven** NEWSLETTER YOU'LL FIND…

2016 End of Year Review

As we quickly approach December 31st, it is important to review how to save the most in 2016 – and how best to prepare for 2017.

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Cybersecurity and the Family

Criminals are smart and adaptive. They have discovered the family office industry and are looking to exploit any vulnerability.

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Gamification

Gamification can improve your family engagement and education. What is it?

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5 Techniques to Prevent Family Breakdowns

With the holidays around the corner, preventing family breakdowns is crucial to enjoying this time with family and friends.

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Trustees: Risk Mitigation and Best Practices

Trustees are held to the highest fiduciary duties under law. Understanding the risks and responsibilities is critical before serving as trustee. Learn More

Choosing the Right Advisor - A Framework for Evaluation

Practical, time-tested benchmarks amid presidential election news and how to keep your "peace of mind" throughout all the craziness that can consume us! Read More

wealthaven | PO 1151 | Bryn Mawr, PA, 19010 | 215.280.0844
PO Box 237054 | New York, NY, 10023 | 646.559.9482

From Our Desks
Holly & Susan

Welcome to the inaugural issue of the Wealthaven Newsletter! We hope you had an enjoyable summer and are taking joy in these crisp days of Autumn. In this first edition of our quarterly newsletter, we are excited to provide you with our innovative thoughts on issues such as **Gamification** and how incorporating games into the family educational process may be a way to foster community across generations and continents. In our **Tax** section, we provide you with tips, reminders and insights for finishing up 2016 with our year- end tax planning. In our **Family Office** section – we offer important new insights on **Cybersecurity** in the family office and best practices for ongoing peace of mind. In our **Governance** Section, we have empowered you with 5 Techniques for Preventing Family Breakdowns, particularly during the holidays when emotions can naturally run high. In our Trust section - a little known fact - Trustees personal assets can be at risk for failure to adequately service the needs of the trust and its beneficiaries. While it's not always easy, managing the liability is achievable. Finishing up with **Investments**, we offer you a framework for evaluation using our **5 P's** approach for choosing the right advisor.

TAXES

2016 Year-End Tax Review

The votes are in! On November 9th the votes were tallied and Donald J. Trump was elected as our 45th President of the United States of America. While the full impact of the 2016 elections on taxes have yet to be seen, the **Trump Administration's tax plan would reform the federal tax code** by lowering marginal income tax rates for individuals and businesses and presumably trusts, it would eliminate the alternative minimum tax (AMT) and the 3.8% net investment income tax (NIIT), increase the standard deduction and increase child care related expenditures, cap itemized deductions at $100,000 for single filers and $200,000 for married join filers, tax carried interest income at ordinary income tax rates and eliminate gift and estate taxes but disallow a step up in basis for estates in excess of $10 million. Many of these tax legislative changes will likely face resistance from House Democrats. Nevertheless, there is still strong bipartisan agreement on the need for comprehensive tax reform in 2017. While it appears that Republicans control both Houses of Congress, any drastic changes may be limited however, because neither party will reach the 60 seat threshold in the Senate, which will cause compromise in the Senate which will affect all Americans.

Although the following is not a substitute for a personalized consultation with your tax professional, it is intended to highlight important planning issues that individuals and families may want to consider before the end of the tax year. Reviewing developments from this past year and taking timely action on a few basic "nuts and bolts" issues may help reduce taxes.

Charitable Giving

A focus of the IRS in 2016 was making sure taxpayers were following Internal Revenue Code Section 170, which regulates charitable gift deductions. The Courts specifically focused on Section 170(f)(8), which charities who receive donations to indicate amount of cash they received as well as any considerations the cash might be in exchange for. Courts have indicated both the charities and the donors of the charitable gift have to be specific when they convey their gift in a written instrument, because if they decide it is not clear enough they will not allow the donor or the charity to use the charitable gift deduction.

Taxpayers can avoid not receiving the charitable gift tax deduction they expect by making sure they are clear with their intentions of what their donation is for in addition to what their donation consists of. The donor also must keep specific receipts and documentation of their charitable donations. Lastly, the documentation of past charitable donations must be accurate and without errors. Taxpayers can avoid these pitfalls in the system by discussing their charitable gift donations with their financial advisors and making sure their attorneys assist them with the documentation to ensure they receive the documentation aligns with Section 107 requirements and they receive their charitable deduction.

Retirement Plans. Year-end is a good time to evaluate whether it makes sense to convert a tax-deferred savings vehicle like a traditional IRA or a 401(k) account to a Roth account. When you convert a traditional IRA to a Roth IRA, or a traditional 401(k) account to a Roth 401(k) account, the converted funds are generally subject to federal income tax in the year that you make the conversion (except to the extent that the funds represent nondeductible after-tax contributions). If a Roth conversion does make sense, you'll want to give some thought to the timing of the conversion. (Whether a Roth conversion is right for you depends on many factors, including your current and projected future income tax rates.) For example, if you believe that you'll be in a better tax situation this year than next (e.g., you would pay tax on the converted funds at a lower rate this year), you might want to think about acting now rather than waiting.

If you convert a traditional IRA to a Roth IRA and it turns out to be the wrong decision (things don't go the way you planned and you realize that you would have been better off waiting to convert), you can recharacterize (i.e., "undo") the conversion. You'll *generally have until October 16, 2017, to recharacterize a 2016 Roth IRA conversion — effectively treating the conversion as if it never happened for federal income tax purposes. You can't undo an in-plan Roth 401(k) conversion, however.*

Expiring Provisions in 2016. There are multiple tax provisions, known as "tax extenders" that are going to expire at the end of 2016 because of legislation signed in December of 2015. They are:

- The above-the-line deduction for qualified higher-education expenses
- The ability to deduct qualified mortgage insurance premiums as deductible interest on Schedule A of IRS Form 1040
- The ability to exclude from income amounts resulting from the forgiveness of debt on a qualified principal residence
- The nonbusiness energy property credit, which allowed individuals to offset some of the cost of energy-efficient qualified home improvements (subject to a $500 lifetime cap)

Factoring in AMT. Make sure that you factor in the alternative minimum tax (AMT). If you're subject to the AMT, traditional year-end maneuvers, like deferring income and accelerating deductions, can have a negative effect. That's because the AMT — essentially a separate, parallel income tax with its own rates and rules — effectively disallows a number of itemized deductions. For example, if you're subject to the AMT in 2016, prepaying 2017 state and local taxes won't help your 2016 tax situation, but could hurt your 2017 bottom line.

Special concerns for higher income individuals. The top marginal tax rate (39.6%) applies if your taxable income exceeds $415,050 in 2016 ($466,950 if married filing jointly, $233,475 if married filing separately, $441,000 if head of household). And if your taxable income places you in the top 39.6% tax bracket, a maximum 20% tax rate on long-term capital gains and qualifying dividends also generally applies (individuals with lower taxable incomes are generally subject to a top rate of 15%).

If your adjusted gross income (AGI) is more than $259,400 ($311,300 if married filing jointly, $155,650 if married filing separately, $285,350 if head of household), your personal and dependency exemptions may be phased out for 2016 and your itemized deductions may be limited. If your AGI is above this threshold, be sure you understand the impact before accelerating or deferring deductible expenses.

Additionally, a 3.8% net investment income tax (unearned income Medicare contribution tax) may apply to some or all of your net investment income if your modified AGI exceeds $200,000 ($250,000 if married filing jointly, $125,000 if married filing separately).

Note: *High-income individuals are subject to an additional 0.9% Medicare (hospital insurance) payroll tax on wages exceeding $200,000 ($250,000 if married filing jointly or $125,000 if married filing separately).*

Timing, timing, timing. In relation to the charitable deduction previously discussed, making a charitable contribution in 2017 instead of 2016 could increase the amount of deductions you take next year, which could be beneficial if you are expecting an increase in your annual income in 2017. In addition, postponing taxable income, like bonuses or collection of rents, until 2017 could also be beneficial because you will not be paying income taxes on that income until next year.

Estate, Gift and GST Tax Updates. There is considerable speculation that the federal estate and gift tax will be repealed under President-elect Trump. While scenarios vary, it is important to realize that its likely to come with tradeoffs – one proposal being a capital gains tax at death – and no guarantee of permanence to any tax reform. Until there is a clear path introduced by the new president, we recommend that clients continue to implement active gifting programs (consistent with their overall goals) to manage the size of their estates. Properly implemented, these strategies can produce significant tax savings.

The exemption and tax rates for the estate tax increased for 2016 and were recently announced for 2017. (See table below).

ESTATE TAX SCHEDULE

YEAR	ESTATE TAX EXEMPTION	MAXIMUM RATES
2013	$5.25 M	40%
2014	$5.24 M	40%
2015	$5.43 M	40% (Gift Tax Only)
2016	$5.45 M	40%
2017	$5.49 M	40%

Source: Internal Revenue Service (IRS.GOV)

The following updates were recently announced by the IRS for 2017:

- Estate Tax exemption: increased to $5.49 million per individual, $10.98 million for married couple
- Lifetime Gift Tax exemption: increased to $5.49 million per individual, $10.98 million for married couple.
- Annual Gift exclusion: $14,000 per individual, $28,000 for married couple with gift-spitting. Annual exclusion gifts don't count towards the lifetime gift exemption.

Reminder: If you want to make gifts and not have to bother to keep track for gift tax purposes, you can make gifts for medical, dental, and tuition expenses for as many *relatives (or friends) as you'd like so long as you pay the provider directly. These gifts don't count towards any of the limits.*

New Jersey Repeals State Estate Tax: Governor Christie signed a bill eliminating the state estate tax for estates of New Jersey residents dying on or after January 1, 2018. For the estates of New Jersey residents dying on or after January 1, 2017 and before January 1, 2018, the state estate tax exemption will be increased from its current $675,000 to $2 million. The new law leaves in place the NJ inheritance tax, which applies to transfers of assets at death by a New Jersey resident to beneficiaries other than the decedent's spouse, parents, grandparents, descendants and charitable organizations. The inheritance tax rate ranges from 11 to 16 percent. A transfer at death of less than $25,000 to a decedent's sibling or the spouse of a decedent's child is exempt from inheritance tax.

New 2704 Proposed Regulations

One major change that may affect how estate and tax planning operates in 2017 are the newly proposed IRS 2704 regulations. A hearing is scheduled for December 1, 2016. If implemented, these changes will apply specifically to intra-family transfers, attempting to eliminate discounts typically used when transferring interests in family controlled entities.

If intra-family transfers were already under consideration by you for 2016, we recommend you complete your plans prior December 31, 2016.
Consider these four planning techniques:

1. **Grantor Retained Annuity Trusts (GRATs).** The transfer of an appreciating asset into this type of trust will be beneficial because the fixed annuity paid each year will leave beneficiaries with little or no estate tax applied to the assets of this trust at the end of the annuity term. Coupling the current valuation discounts of FLP interests inside of a GRATs has the potential of dramatically increasing or "supercharging" the tax savings and performance of the GRAT.
2. **Intentionally Defective Grantor Trusts (IDGTs).** Families can "supercharge" these types of trusts by using a traditional installment sale transaction to the IDGT which further reduces estate tax. Selling interests in family-controlled entities are beneficial to existing grantor trusts, particularly if you are able to sell an asset to the trust at a discount and later "swap" that same asset out for assets of equivalent value. This achieves the effect of allowing more assets into the trust on a transfer tax free basis.
3. **Fractional Interests.** These are interest's individuals own as "tenancy-in-common" – often real estate. It is possible these interests – used for real estate and personal property – will remain in affect with the new regulations. Section 2704 only applies to interests in family-controlled entities.
4. **Gifts.** Now is the time to accelerate any gifting that has been under consideration. You can benefit from gifting if you tailor your estate plans so charitable entities or non-family members who will be receiving gifts, hold small percentages of your company for the three-year lookback period prior to the transfer of funds. Then, your

gifts to these organizations will not be disregarded by the new regulations in regards to transfer tax.

Also affected by these new proposed 2704 regulations – it will be important to review:

- ✓ **insurance policies**
- ✓ **tax apportionment provisions in your documents (Wills and Trusts)**
- ✓ **Shareholder Agreements**
- ✓ **Partnership agreements, LLC and FLP agreements**

There is still time! When it comes to year-end tax planning, there's always a lot to think about. Your tax professional can help you evaluate your situation, keep you apprised of any legislative changes, and determine whether any year-end moves make sense for you. Wealthaven stands ready and able to assist you with these matters at any time.

Sources: Wealthaven LLC and Broadbridge/Forefield

Related Resources: Basics of Estate Planning Intra-family transfers Planning strategies for proposed IRS 2704 regs

FAMILY OFFICE

Cybersecurity and the Family Office:

10 Tips for Protecting Your Data

For many families and family owned businesses, the mention of IT or data security in any given conversation will cause the most business savvy of people's eyes to glaze over. Like fiber, or exercise, cybersecurity is one of those things that "you know is good for you," but rarely seems tasty or interesting in large doses. Yet, if you were to turn on the television or open any newspaper on any given day, you are guaranteed to find an article that touches on a security breach at a large institution or an act of cyberterrorism somewhere in the world. Cybercrime – like banking – has become big business, and for professional cybercriminals, the cost of entry is getting lower and payoff higher every day.

How can we protect our families and our family office information from this ever increasing threat of breach? While a full risk assessment can be time consuming and require the hiring of experts, there are many simple and easily implementable steps families and family offices can take immediately to reduce the risk of a breach significantly:

1. **Hide in Plain Sight** - A simple screen protector, often less than $20 on Amazon, can shield your tablet, laptop or other device from prying eyes.

2. **Check and Double Check** - Use two-factor authentication whenever possible. Many financial institutions and web-based products offer an option for a two-factor authentication, which would require you to receive a text message or other code at every log in.

3. **Avoid Peeping Toms** - Use a Post-It to cover the camera on every device that doesn't have a camera cover or deactivating capabilities.

4. **Go Private** - Families and family offices should establish a private (not Gmail, or Yahoo) email domain name and have all traffic funneled through a secure server.

5. **Authenticate all Communications** - When communicating electronically, families and family offices should be aware of Phishers who attempt, by masquerading as a trustworthy entity in an electronic communication, to obtain sensitive

information. If a communication seems out of place, try verifying it before continuing communication.

6. **Swap 'em out** - Passwords should ideally be 10 or more characters and should be a mix of numbers and letters. If memorizing them is too hard, try using a sentence and switching numbers for letters. "Chocolate is Great" becomes "Ch0c018izGr8."

7. **Clean It Up** - We are all digital hoarders, cluttering up our systems and peripherals with a lot of old (often duplicate) documents. Taking time to clean up and remove unused software and running trustworthy anti-virus software should be a routine occurrence.

8. **Close it down** - Augment your routine cleanup and run a formal credit check on every family member at least annually. This is a good way to monitor for fraud on younger or older family members who are the prime targets of credit theft.

9. **Get Insurance** - Reviewing your Insurance policy to see if you or your family office would be covered in the event of an incident. If you have not purchased a cyber specific insurance product, then the chances are you are not covered and should contact your provider to inquire on its offerings.

10. **Travel Wisely** - When traveling domestically, always use a VPN and never, ever, use public or communal Wi-Fi systems. When traveling internationally, it's a good idea to use "loaner" or "travel" devices which can be erased when leaving their home jurisdiction and wiped clean upon return, and before uploading files into your system.

Beyond implementing the aforementioned list of tips, there is no doubt finding good advisors to help you through this process can often be a great first step towards implementing effective data security protocols. For wealthy families and family offices, your cyber advisors should have a keen understanding of your operational issues and the myriad of considerations that drive your daily activity.

Wealthaven Security Measures for the Family and Family Office:
Understanding the needs of family members and Family Offices is our primary concern at Wealthaven. We are continually evaluating at Wealthaven how to protect the security of our confidential client data within our offices and ultimately the best measures to protect you and your family. We would like to suggest the following cyber security protocols to our families, family offices and advisors as a way to **start protecting your data** until you're able to secure a more tailored set of protocols for your family and family office to adhere by:

- First and foremost, all families, family office professionals and their advisors need to get educated about the nature and extent of the risks they face. Every single person in, and associated with the family, has a responsibility for managing cyber risk. It is not just for advisors or IT persons.

- Second, families and family offices should develop a robust plan to manage risk and to operate in the event of a breach; either of their own FO systems or of the data that is held by an outside vendor or third party. We also suggest utilizing secure cloud-based storage options as either the main source, or as a backup location, for all data storage. Here at Wealthaven, we utilize "Box" and its Governance package. Originally designed for use by government agencies, like that of the FBI, it has since become a fan favorite of Fortune 500 companies because of its high level of security and support of FINRA and SEC 17a-4 compliance regulations.

- Finally, families and family offices should require all employees and family members, as well as outside advisors or consultants, to adhere to whatever risk protocols you have identified to minimize the occurrence or extent of a security breach. With cybercrime on the rise, it's critical to remember the best systems are only as good as the weakest user, and if a family member or outside entity is going to insist on using their Gmail account to communicate with you or your office, you will need to take this into account in designing your protocols. That said, we suggest all families and family offices obtain cyber insurance specially tailored to your operational needs to assist in mitigating any financial or reputational damage that can result from a data breach of your family or family office systems.

$28.9 Billion was lost to cybercrime in the U.S. in 2015.[1] As the saying goes, "the best defense is a good offense." We believe if you, your family and family office carefully prepare and take a thoughtful approach to make sure procedures are in place, the cost and disruption of this unfortunate new reality can be significantly minimized for your family and family office.

For more information and resources to protect your family members' financial and personal information against cyber fraud, please contact us or visit us at: http://wealthaven.com/library/

[1] *Source: 2016 Norton Cyber Security Insights Report & Wealthaven, LLC*

Education

How 'gamification' can improve family education and engagement

Julie Andrews, playing the title role in the film *Mary Poppins*, sang: "***In every job that must be done, there is an element of fun. You find the fun and, snap, the job's a game***." As parents have known for generations, projects that seem like fun get accomplished more quickly, and more people want to participate.

Our school and work lives can be compared to a grandly complex video game. We strive to complete a sequence of challenges or quests. When we "level up," we receive a passing grade or a job promotion. At the end of a series of challenges, we might garner a badge (a diploma) or a prize (a new title or a year-end bonus). This is perhaps an oversimplification, but games and rewards are heavily embedded in our social fabric and hard-wired into our psyche as a way to engage, motivate and teach.

Family businesses spend an extraordinary amount of time and capital (financial, human and intellectual) on skill building and education within the family system. Rising members of the family system must master many different skills. Some of these skills can be taught in a classroom or online, but others must be supplemented with experiential learning.

With families increasingly scattered across the globe, family leaders must find a way to entice all generations to work cohesively to further their common interests. Games, at their core, are among society's most powerful forms of communication and entertainment. Incorporating games into the educational process may be a way to increase engagement and foster community across generations and continents.

Researchers have found that three basic psychological needs can be met through games. First, there is the desire to seek control or gain mastery over a situation. We like to feel that we are succeeding and gaining competence. Next is the concept of "autonomy," or the desire for control over our actions. We don't like to be manipulated. Finally, there is the need for "relatedness." We want to matter to others and to contribute to society.

The power of games

The business world is aware of the psychological power of games. Companies have been adding games and prizes to their marketing and customer loyalty programs for years -- consider S&H Green Stamps, prizes in Cracker Jack boxes, and airline frequent-flyer programs. Today, game elements are increasingly being incorporated into workplace learning and internal employee functions.

The use of games -- or, rather, the application of game elements to non-game contexts -- has been referred to as the "gamification" of the workplace. In laymen's terms, this means using the elements we associate with games as motivational tools.

Points are a basic element of game design and can provide a context for measuring performance. Badges work to showcase larger accomplishments, such as completing a series of tasks or mastering a new skill. They are a visual reminder of our achievements. Leaderboards can awaken participants' competitive instincts or, in a team situation, can create a sense of community.

Technological enhancements

Game elements become even more powerful when augmented with technology. Incorporating real-time data analytics, mobile or cloud-based platforms, or social media elements can foster communication and a sense of play. Just as traditional games have been used for millennia to bring friends together, gaming in a virtual environment unites large groups of people.

Corporations have used digital games as a way to build and solidify brand loyalty for the last two decades, as the Internet became a more pervasive means of customer interaction. In fact, some social media firms are based entirely on game-playing to drive business revenues (think FourSquare).

Companies are now using games to motivate and engage employees, sometimes for learning initiatives but also to stimulate innovation and enhance teamwork. The Gartner research firm estimated that some 70% of companies would use gamification techniques for at least one business process by 2014. Deloitte estimated that revenues from gamification initiatives would grow to more than $2.8 billion by 2016. These methods are used in applications such as FitBit and Salesforce.com, as well as the badges and points on almost every social media platform.

The gamification of family education

Family enterprises are beginning to incorporate elements of games into their social media communication and family portals. "Gamifying" your family website does not need to be overly hi-tech or very expensive in order to be effective. ***One family, for example, populated their dedicated private Facebook page with simple quizzes about current events related to the family's operating business (such as news articles on deals within the industry and market trends affecting profitability), tracking responses using a leaderboard on the page.***

Another family used a shared Evernote library, supplemented with emailed Survey Monkey questionnaires, as a way to share news articles and generate discussions among family members on topics of interest, especially leading up to shareholder weekends. At family reunions, the leading scorers on surveys and those publishing articles to the shared libraries were acknowledged for their participation and success through prizes and pins that they proudly displayed throughout the weekend. While a minor activity, this simple game enabled the younger generation to be recognized at a broader family function; provided a low-cost, yet fun, educational tool to encourage discussion about the impact of broader market forces on the operating business; and challenged other family members to begin engaging more in the online community that had developed. ***The families noticed that the content of the Facebook posts began to shift from chatty updates on family news to links to relevant articles. Essentially, they had "crowdsourced" their family educational effort across the entire family system.***

Yet another family circulated Survey Monkey quizzes and news articles on their SharePoint sites, coupled with emailed leaderboards comparing participants' performance on the quizzes and badges awarded for reading and commenting on news articles. They found that these innovations not only increased family participation broadly but also uncovered a desire for online learning. In response, they began enrolling family members in several Coursera and Khan Academy classes aimed at bolstering financial acumen. Over time, they developed a database of materials from these courses and posted it on the family website. By tasking "rising leaders" with the job of maintaining the database (and reviewing the online content), they were able to provide leadership opportunities to family members who did not yet have enough experience to take on more "traditional" leadership roles in the family office and business.

Other families have begun to explore the gamification of their family history or business information to educate and engage younger members. In essence, they are moving from an external piecemeal approach, using Survey Monkey quizzes and manual leaderboards, to exploring formal online educational tools. Families with very large shareholder groups are starting to work with software developers, like Bunchball and others in the gamification space, to create a more robust online educational programming tool incorporating quests and games.

Many financial advisers and consultants are moving to the gamification space as well, developing more robust suites of tools to engage younger family members. Reading pages of family history or poring through financial statements is certainly more fun when you are competing with cousins for points or prestige factors.

While there are several firms devoted to gamifying business processes, the application of this trend to the family business arena is still in its nascent stages. Proposals to add gamification elements to an existing database of family educational material can be pricey if proper parameters for the project are not given to the technology team but often are reasonable in the context of a shareholder budget. However, even adding basic gamification elements to the usual tools employed in consulting or family educational events can have a profound impact collaboration and engagement.

Perhaps your family should consider adding gamification elements to your annual family retreats and educational symposia. If you do, you may find that your cousins who are glued to their smartphones are not playing on their own -- they're comparing pieces of family memorabilia they found during the scavenger hunt or studying the family firm's balance sheets. You never know where games may take you!

Source: Wealthaven, LLC

GOVERNANCE

5 Techniques to Prevent Family Breakdowns

The holidays are around the corner. How do you maintain your balance in the middle of holiday family gatherings or the annual family meeting? Have you ever experienced seeing an old friend or family member and suddenly feel your body tense? Family life can feel tremendously difficult. Because of the interconnectedness of family living, each person in a family is bound to the personalities and shadows of everyone else in the family. You can't easily avoid your mother, father, mate, children, or your siblings.

In the case where you are also an employee in the family business, or serving as the family trustee, family attorney or wealth advisor – these issues can quickly escalate around discussion of money.

In the article Donna LeBlanc and I wrote titled "*Avoiding Family Feuds*" [1], we identified five common dynamics that cause family disagreements and disputes – particularly as it relates to family wealth. By identifying the dynamics, we've also been able to create highly sophisticated ***diffusion techniques*** you can use to prevent or mitigate the problems that can develop into a full-blown family breakdown.

1. Remind the Family of their Roots.

One of the most effective diffusion techniques is to rebuild the link or emotional relationship between the benefactor and the offspring. It's especially useful if you helped the benefactor create their legacy and feel emotionally connected to carrying out their wishes. Drawing the line to the source gives you the power to navigate the choppy waters and defuse family feuds. No matter what most beneficiaries may say, deep down inside is a connection to their predecessor, either by love, reputation or a desire to emulate them. In addition, you can eliminate negative interactions between siblings, alleviate disputes over consumption and help reconnect them to their family history.

Using proper diffusion techniques, you can create more effective language and help focus on advocacy with the goal of conveying an atmosphere of balance, trust and agreement. It will remind the family of your strong relationship with the benefactor, and help prevent personal attacks and criticism.

To make a personal connection you may want to say something like, "***Jane, I can see that this is really important to you. Dad wanted nothing more than for all of us to be taken care of for the rest of our lives. This feuding violates his intention for you. He was very clear about wanting you and those that come after you to be taken care of forever. Let's see if we can work together and do some creative problem solving so that all of us can win***."

2. Validate the Family's Perspective

It is important to be flexible in communications. You may say, "***I can see how you feel. Coming from your position this makes sense. I understand that this must be very difficult for you***."

Making it clear to family members that they are understood is a powerful diffusion technique. Then you might say, "***Dad was attempting to avoid conflict between all of us. What he would want is for us to resolve this amicably. You may not get everything you have imagined but you are getting something and giving up something so everyone will be able to 'save face' and move forward***." To resolve a dispute like this, everyone needs to feel like they win.

You can work to find a way for everyone to "save face," by creating a way for them to be right about something. It will give them a sense of winning, so they can forgive and let old wounds heal.

3. Set a Reasonable Pace

It's equally important for you to take care of yourself during this time. Call a "time out". Take 5, 10 or 30 minutes for yourself. Additionally, if you are holding the annual family meeting during this time, we advise not holding continual eye contact to avoid coming away feeling drained. Take breaks, for everyone's benefit.

Calling for your own form of 'time out,' may help to defuse emotion. In the context of the annual family meeting, we suggest that you create a bit of space by gazing down and taking notes. It gives you an immediate distance, and prevents the person from "pulling" on you emotionally.

In every meeting, try to come away with one agreement on at least one thing, even if it's small. Get heads nodding in the right direction and you will set the stage for the second agreement and the third, and so on. If you are the trustee or an advisor, you should refocus the client continually about what is really at stake. Consider the perfect moment to privately ask the following question: "*Jane, at the end of your life, would* *you like your sister holding your hand with beautiful memories or would you like money in your hand? Perhaps you can have both*."

4. It's Not Just What You Say, It's How You Say It
In human communication there is what you mean to communicate and then there is how you are coming across. This is called the "subtext." Your words can be saying "I want this or that," while your tone, pitch and body language could be saying, "You idiot, I'm not listening to you."

The wrong subtext can make other people angry, defensive and shut down. Their limbic brain gets activated and they move into a fighting or defensive stance. They can no longer hear what is being said.

Keep the conversation ongoing and open. In that context, solutions will be found. Also, advocate nonattachment, which is the ability to truly let go. As human beings, we can inadvertently feed off drama. Yet when we learn to let things go it can help us transition through life's changes.

5. Make Clear Distinctions between Family and Business
Mixing the lines between family and business can be difficult and lead to family breakdowns. Families and businesses have entirely different cultures. Most families seek stability, love and accept each other, are private, desire harmony and know they are tied together as a unit for generations. Businesses, in order to be successful, must operate in an entirely different world. Businesses must make a profit, demand performance from employees, enforce lines of authority, be nimble and conscious to constant change. Businesses also recognize that relationships are formal. The relationship may end when it no longer makes business sense. In a family business, family members often experience confusion as family expectations overlap with business expectations.

Imagine yourself at the Thanksgiving table in discussion with your sister and brother-in-law. In that discussion, was that comment made as a sister speaking to a brother, or as a superior speaking to a direct report? The confusion is normal, but potentially threatening to the family and the business.

Managing differences between siblings is important in this context. Their dedication to the family business or ability to contribute to the family business can lead to tension between siblings, particularly when they are treated "equally" in a financial aspect. Clearly articulating places within the family business as well as maintaining clear lines of communication between the benefactor, advisor, and beneficiaries will result in the least amount of tension when distributing assets IF the intent was previously understood by the descendants. Children who are not committed to the family business can still feel equally valued and children who have committed their professional careers to the family business can feel their work is valued if the benefactor and advisor clearly establish lines between family culture and business culture.

Keeping family life and business life separate can be nearly impossible. Most business owners we work with are so busy with their daily operations that they feel they can't take the time to work on these family governance issues. Unfortunately, many business owners have found out later that their failure to take the time to focus on the special nature of their family business can result in family disharmony with enormous blocks of time spent later trying to recover from issues that could have been prevented with a few days of work with a governance advisor.

1 Authors: Susan J. Hartley, C.T.F.A.; Donna LeBlanc, M. Ed., NYMHC "Avoid Family Feuds", Trusts & Estates, 7 February 2014, pp. 1,2. Copyright Donna LeBlanc 2014.
Related Resources: http://wealthaven.com/articles/

TRUSTS

Trustees: Risk Mitigation and Best Practices

Trustees are held to the highest fiduciary duties under the law. Whether you are acting as an individual trustee or a trustee under a private trust company, understanding the risks and responsibilities is critical to serving as a trustee.

Risk Mitigation

Acting as a trustee, in an individual capacity, carries with it risks and responsibilities that need to be understood by anyone stepping into that capacity. Trustees can be held personally liable for failure to adequately serve the needs of the trust and its beneficiaries. Pursuing a fiduciary role through a Private Trust Company (PTC) insulates individuals from their personal risk to some extent but transfers those risk to the PTC. Managing the liability is not always easy, but achievable, if the trustee follows certain policies and procedures, approaching the management of all trusts and execution of it activities in a professional and responsible manner. There are several areas where the trustee can take action to minimize its liability.

Obtain Insurance (E&O and D&O)
While this is easier for corporate (PTC) trustees, all trustees should endeavor to obtain insurance for their errors and omissions. If there is a corporate entity, directors and officer's insurance should be obtained as well.

Understand All Trust Documents
Understanding the trust documents, and ensuring that the trustee has the ability to administer the assets, directly or through the use of outside vendors, is an important part of risk mitigation.

Hold Quarterly Communications with Beneficiaries
As a best practice, we recommend that trustees have regular and frequent communication with the trust beneficiaries: quarterly and annually. *A typical review will consist of a review of the following areas or topics:*

1. **Overview or Summary of Trust Operations –** This will include income earned, distributions, investment performance and so forth. Depending on your choice of custodial platforms, the generation of these reports should be mostly routine with some manual work needed to polish and collate information.

2. **Investment Review –** In addition to the performance reporting of trust assets, the trustee (or PTC) will need to provide a broad market overview as well as a discussion of the tactical and strategic asset allocation of the trust, review of the investment policy guidelines and distribution provisions, with a summary of what this means to the beneficiary and the trust longer term. Outside managers may join for all or part of this review, depending on logistics (in the case of multiple managers, we would have one member of the administrative team handle this, perhaps in conjunction with the Investment Committee.) The investment review should also be consistent with the Investment Committee and PTC's approach to investing and philosophy around trust management.

3. **Principal and Income Review –** There should be a review at each quarterly meeting, with an in-depth review annually, of the principal and income accounts of the trust, what this means for the beneficiary cash flows and taxes.

4. **Next Steps and Outlook –** Each review will conclude with a summary of changes to objectives, outlook for future of trust investments or distributions, etc.

5. **Manage Taxation of Trusts –** The Trustee needs to review, at least annually, the state and federal tax returns of the trust in conjunction with the distributions and investment objectives of the trust.

6. **Develop an Investment Approach Appropriate to Trust Management –** The Trustee needs to identify its approach to investment management and recognize where personal biases might be at odds with the investment needs of a trust. For example, the Prudent Investor Act is predicated on a belief that there is no ability to efficiently capture market alpha, or an outperformance of a benchmark, through active management. As such, the Act favors index-based approaches to trust management where low fees and strong adherence in the portfolios to their applicable benchmarks ensure that the trust will keep pace with its asset allocation. This belief places the focus on strategic asset allocation with tactical tilts in the portfolio balance to reflect market conditions, and is executed through exchange-traded funds (ETFs), option overlays and capital protected strategies. Where there is a belief in market alpha, the Trustee (or PTC) would need to articulate why this belief is held and why this manager is able to obtain the excess return expected. Moreover, the Trustee is responsible for ongoing review and oversight of the investment manager, would need to articulate a timeframe for such performance and be willing and able to fire that manager over time.

7. **Create Formal Written Investment Statements -** Each trust needs to have a formal written investment policy statement ("IPS"). These IPS statements address a number of topics, depending on the trust, but usually include the time horizon of the trust and its impact on the way investments are made, the distribution or income required by the trust terms, and attendant impact on investments, the risk tolerance of the trust and trust beneficiaries, the manner in which any large concentrated positions are incorporated into asset allocation, and sets forth the investment philosophy. The Prudent Investor Act imposes a duty on the trustee to pursue and overall investment strategy, having risk and return objectives reasonably suited to the entire portfolio, which will enable present and future distributions to/for the beneficiaries as required under the instrument. In constructing a portfolio investment strategy, Trustees must consider risk tolerance of the trust and the relevant circumstances of the beneficiary. Trustees are also required to diversity assets unless it is reasonably determined by the Trustee that it is in the best interest of the beneficiary not to diversity.

8. **Create Formal Written Distribution Policies –** Each trust should have formal written distribution policies. These distribution policies will include a recitation of what the trust documents provide with respect to distributions, the trustees interpretation of these documents and any philosophical approach or belief that will be used when reviewing special distribution requests.

9. **Develop Strong (detailed, comprehensive but workable) Fiduciary Policies and Procedures –** In the case of a PTC, the PTC Board will approve the policies and procedures to address operational issues in all areas of trust management.

10. **Ensure Meticulous Record Keeping Across All Areas –** In particular, the Trustee (or PTC) will need to have strong records for Accounting, Tax Compliance, Custody and Reporting, Beneficiary Meetings and Communications.

Trustee Best Practices

Many of the *best practices* of a trustee are set forth above in the "Risks and Risk Mitigation" section. A few additional things to note include:

Do understand the implications of the Prudent Investor Act and the Principal and Income Act on trust management.
Do understand your rights and responsibilities as a trustee.
Do create a philosophy for the PTC to follow in the creation and operation of the enterprise.
Don't let family ties, views, or prejudices obscure your legal obligations as a trustee.
Do focus on collaboration and consensus. Ensuring that all parties act in sync, that there is sufficient financial planning and education of beneficiaries to

ensure that they understand their trusts will be important to any long term success.

Do have clear, repeatable metrics for making investment decisions, implementing trust structure and distribution decisions.

Do understand trust documents and distribution provisions.

Do recognize and use the flexibility offered to trustees under the Principal and Income Act to ensure that the best result for the beneficiary is obtained, while balancing the fiduciary obligations of the trust.

CONCLUSION

Whether you have chosen to appoint an individual trustee or create a family Private Trust Company, selecting a dependable trustee to oversee a family's estate plan is one of the most important decisions to be made to ensure your wealth is managed and distributed according to your wishes. And, although creating an estate plan can be a complex process, it can ensure that your family will be provided for after your death and is a core element of a long-term wealth management strategy. ***Trustees assume tremendous responsibility. Many people agree to serve as trustees without appreciating the nature of the work they are to perform or understanding that they can become subject to personal liability. You'll want to make sure your trustees have a full understanding of the issues, responsibilities, and time involved in the process and have the resources and objectivity required to be effective.*** All aspects of estate planning involve significant legal considerations and many tradeoffs in terms of control or tax savings. It is imperative to work with a qualified estate planning attorney and advisor to obtain expert advice in crafting your long-term strategy and designing trusts or other entities that will shape your overall family legacy.

Source: Wealthaven, LLC
Related Resources: http://wealthaven.com/publications/trustees-risk-mitigation-and-best-practices/

INVESTMENTS

Choosing the Right Advisor – A Framework for Evaluation

The election reached a fever pitch on the evening of November 8th with the stock market declaring Trump the winner hours before the TV networks - and the Dow Jones Industrial Average went into a free-fall, plunging 900 points in the futures market before bottoming at 17,500. Then, as Trump began to deliver a more measured victory speech with a pro-growth agenda, the stock market thundered higher Wednesday and Thursday, inched down Friday, and ended the week up 3.8%, as measured by the Standard & Poor's 500 index. Many sectors continue to trend higher in expectation of promised tax or regulatory changes – many of which may not materialize for months or years, if ever. (Which leads to a need for thoughtful approaches!)

Regardless of the daily missives from investment firms prognosticating on what President-elect Trump will do for our taxes or markets, it seems important to take a breath and realize that markets are always uncertain, the "doom and gloom" sells advertising dollars and Congress will be slow to act regardless of who is in the White House. In the work we do with clients around investing, we often find ourselves reframing the discussion to focus on the big picture, a theme that likely makes sense with the drama swirling around us in the daily media feeds.

The business of investing is a simple one, investors try to get the best returns possible on a risk-appropriate basis. The practice of investing, however, is complicated by arcane vernacular, incessant shorthand and acronyms, and confusion generally about what is being offered or sold vs. what is being delivered. When we advise clients on managers or asset allocations, we are mindful of the "5 Ps" and try first and foremost to ensure there is clarity and alignment here, before moving to implementation or asset selection.

These five "Ps" are People, Process, Philosophy, Price and Performance. By framing the advisor selection process across these areas, we find clients are better able to ask questions and evaluate answers to select the best partner for their investment needs. In practice, we have a much more exhaustive list of questions we will use in an engagement but this should provide some initial food for thought!

PEOPLE

It is important to understand (and write down) what you are looking for in a partner or advisor before you start the process. If you are in the midst of evaluating an existing advisor, it can still help to write out the traits that are most important to you. Most (if not all) financial professionals are great salespeople. In the high net worth market, they are often intelligent and compassionate as well, making it difficult to separate the attraction to the individual as a person from the individual as a sales representative for a broader firm. In meeting with prospective investment advisors, it is important to understand who your team will be, evaluate the depth and breadth of the team and how much (or little) they rely on the centralized resources of the firm. You may be choosing a brand name institution only to find the team you are working with is acting more like an independent franchisee! How do they, and their firm, think about risk – both in terms of your portfolio and their overall operations? Who is their average client? Where are you in relationship to this "average"? In the broad spectrum of services offered, what are you most likely to use? Its easy to be distracted by the 'sexy' stuff and shiny new investment products, overlooking the core products you will be purchasing from this firm over time.

PROCESS

As noted, there are some brilliant people in almost any investment firm you choose. The issue is how and when we access them. You will hear a lot about their overall investment philosophy but its just as important to understand "how" they implement this view and "why" they choose a means of implementation. One mistake investors make is focusing on the central advisory team within a larger brokerage or investment firm, failing to recognize that, depending on the firm, the individual group covering a client may have tremendous latitude to go their own way in making choices on how to implement the portfolio. In this instance, the centralized views may mean little if the people on the relationship are calling the shots. Ask how they set their strategic outlook for clients? How deep is the bench of the economic team? The research and/or the manager due diligence team? What is the process to develop and implement an asset allocation? How tactical tilts or weightings implemented in client portfolios? Where does the individual team have the latitude to exercise their discretion over the centralized recommendations to tailor our portfolios? Overall, how do they think about money, the markets, and implementation.

In this area, there is a lot of information for us to unpack. Many teams will try to showcase their individual expertise but often clients are looking at big firms, and we want to know the big picture.

PHILOSOPHY

The overall investment philosophy of a firm is usually a focal point in an investment pitch but rarely do firms explain how the central philosophy is translated into process. It is also important to know how global viewpoints are created and how quickly they are able to react to market changes. Questions to ask can include whether they are they raising cash in other client accounts and how this relates to their proposed deployment of your funds? Are they sitting on cash? Is this a buying opportunity and if so where? When and how do they rebalance? What did they do this year and when? How about last year?

Clients come to the markets with different levels of sophistication and it's a bit like jumping on a moving train. At any point in time, managers are actively rebalancing portfolios, raising or deploying cash and perhaps deploying differently. What is the timeline for your proposed implementation and how might they treat new money entering their management vs. existing clients already invested in an asset allocation of their design? Asking about current events is often a good way to get a sense of how a firm views global news. You may have your own views and it can be interesting to see if you are in alignment in your assessment of opportunities or risks.

Price

Getting a fee schedule from an investment firm can be as difficult as getting a straight answer from a politician. We routinely ask for fee schedules, both in terms of the types of fees and process for setting fees. While there is a menu, most families of wealth are priced on a relationship basis at some point and it is important also to understand the price quoted to you. We find many firms will give a basis point answer but it reflects their fee only, not the fees of underlying managers. It is important to get a precise all-in fee quote up front and use it as a reference for your portfolio in quarterly and annual reviews. Ask yourself if you understand how the firm makes money from your relationship? Do fees change whether the manager is acting on a directed basis (making recommendations but looking to you for approval) vs. a discretionary basis and what parts of the portfolio are going to be directed vs. discretionary. What fees, if any, are paid to the firm by underlying managers who are managing parts of the portfolio. In some instances, we have seen reduced fees "for our special clients" only to find that the firm is paid a placement fee by the private equity manager or hedge fund and this fee is rarely disclosed to the client. If the fee is disclosed, understand what portion of that fee is paid to the team recommending the private equity manager or hedge fund. Registered investment advisors typically are paid a flat management fee while teams operating inside larger brokerage firms or banks are paid according to a grid set by the firm. Their payout is a percentage of the assets under management but can vary based on how well they are meeting incentives set by the firm, some of which may have nothing to do with your investments but rather how they staff or run their team operations.

PERFORMANCE

While performance would apper to be a top priority for investors when selecting a manager, figuring out exactly what their performance has been can be surprisingly difficult. An individual fund manager should be able to provide audited performance figures for their strategy. The overall asset allocation, however, is rarely an area where firms track or provide performance figures. In particular, focus on whether the firm can provide actual or composite performance for their past investment calls, vs what your proposed allocation would have delivered. Keep in mind that most firms are showing hypothetical returns for an asset allocation where the future performance based on sector or asset class assumptions, and not what the underlying managers might have delivered or may deliver going forward. Ideally, you want to understand how they have done over time and, ideally, how they have managed ***family*** money like yours in the past.

With any advisor, it is the overall relationship that will often matter most. We have had families choose an investment advisor based on any one of the categories above, or completely separate ones. However, the happiest relationships, over the long term, seem to come from a thoughtful assessment of the overall situation, through the lens of the ***people*** managing the relationship, the ***platform*** from which they are operating, the ***process*** by which the investments are managed, the ***price*** for this service, and the ***performance*** provided.

Source: Wealthaven, LLC