



# Multigenerational Estate Planning

## Become a Source of Strength



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**David Richman:** The new version of The Charismatic Advisor presentation that I've been introducing around the country talks specifically about the difficult topic of having deeper conversations with patriarchs and matriarchs about multigenerational estate planning. Your ability to be a source of strength for your affluent clients can be showcased best by engaging in these deep conversations. The challenge is in how you approach the topic and begin to have this difficult conversation with your clients.

I'm joined by Michael Gooen from the law firm Lowenstein Sandler and Dr. James Weiner, co-founder of Inheriting Wisdom, a specialty consulting firm that designs strategic legacy plans that maximize a family's human capital. Michael's practice focuses on wealth preservation and transition for private clients and business entities with an emphasis on tax planning. He has been named to Worth Magazine's list of top 100 Attorneys, which recognizes the nation's leading attorneys specializing in trusts and estates, philanthropy and other private practice areas. Dr. Weiner, the author of The Legacy Conversation, is a clinical psychologist and a recognized speaker and trainer. He has spent over 35 years coaching and counseling individuals to successfully respond to personal and professional obstacles.

Michael, could you speak about what your experience has been in entering into these difficult conversations with patriarchs and matriarchs?

**Michael Gooen:** When you start dealing with multigenerational estate planning, the issues become particularly difficult to unpack. Clients are often reluctant to talk about weaknesses within their family relationships—or disappointments in their children that may end up reflecting disappointments they have in themselves as parents. Typically, we have these conversations

over a long period of years. In this frenetic estate planning environment, the conversations are compressed into months, weeks or even days.

Sometimes the job as a counselor is to hold up a mirror to clients and ask them to look more closely at what they're really trying to accomplish. They need to understand the potential implications once their plans are fully known to members of their family. Sometimes raising those questions requires you to do so delicately; you have to do it incrementally. You must always give clients the permission to opt out if you push them out of their comfort zone. The tendency is for clients to shut down and not to pursue the hard questions, which becomes counterproductive.

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**"... It's important to start these conversations and to make sure that they don't lose important planning opportunities."**

– Michael Gooen

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That said, I think it's important to start these conversations and to make sure that they don't lose important planning opportunities. I think that nearly every family who goes through this process is better off for the experience.

**Richman:** Yes, we've heard about it all too often when clients opt to keep their estate or wealth transfer plans private until the reading of the will to avoid this difficult conversation about multigenerational estate planning. Dr. Weiner, how do you help clients confront the much harder questions of how to transfer wealth and how do you best communicate it to members of their family?

**Dr. James Weiner:** As a general rule, a family is best off consulting with experts before jumping into the swamp of family dynamics. Making the decision to discuss wealth transfer plans with the next generation requires determining whether the benefits outweigh the risks. The first question we encourage people to consider is, “What are the risks of not discussing your intentions with your heirs?” Often the biggest risk is that neither the family nor the advisors are comfortable having the conversation.

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Let’s consider an example of a family that turned the challenge of disclosing their plans to the next generation into a unique opportunity. Both parents had been active in the family’s training and consulting business. Their daughter, who we’ll call Susan, had worked hard to prepare herself to become a principal in the family business. In addition to her graduate school education and continued training, Susan had worked for five years in the industry before being hired by the family business.

However, the family became concerned after Susan met Bill at an industry conference. Not only did Bill work for a direct competitor, he worked for a firm owned by Susan’s uncle who had once been her father’s partner. Conflict had led to a painful separation of their interests, requiring a legal battle. As a result, Bill was immediately cast as Bill Outsider. Marriage to Bill threatened to change Susan’s role forever within the family; she would become Mrs. Susan Outsider.

About the same time, Susan’s father was diagnosed with a life-threatening disease. To complicate matters, Susan’s younger brother and sister were reaching the age where the question on everyone’s mind was whether there was room in the family business or if they even wanted to be part of the business.

It was the family’s business attorney who decided to take a risk and offer an alternative to Susan’s parents as they were reviewing both their estate

and succession plan for the business. When Susan’s parents suggested selling the business and shielding the family from knowing about their estate plans, the attorney suggested that they speak to another family that had successfully used a strategist to create a culture that encourages entrepreneurship in the future generations. In comparison to other alternatives, this one required a real commitment on the part of the family both to work on the family culture as well as create the legal and financial structures that would be necessary.

**Richman:** This makes me ponder the big picture question of whether equal is fair. If two sons have helped build up the family business and a daughter has not, there’s a natural inclination for a patriarch to point out that the two sons built his business. In this case, there’s going to be a disproportionate wealth creation upon transfer. That raises questions and concerns about what ultimately happens between the daughter and her brothers down the road in terms of their relationship. How this daughter might feel toward the father or the parents in this situation then gives rise to the question of communication. Michael, what is your take on the idea of whether fair is equal?

**Gooen:** This is a complex, but common, scenario for wealth advisors. The example raises numerous threshold questions. Does the patriarch treat the two sons exactly the same? Have the sons’ contributions been on par with each other? What has the daughter contributed to the family’s financial, cultural and spiritual wealth outside the business? What is the relationship like among the three children today? What’s the patriarch’s gut feeling as to what’s right? Are there viable alternatives?

Generally, when you start down the road in that type of conversation, you’ll see some inconsistent thinking because there are tensions. It may be very difficult to isolate emotions from other values that a family member may be bringing to the table. You have to keep checking back with the patriarch and matriarch and come to a conclusion that feels right (or perhaps the least wrong) to them. At that point you can start stress testing it with a variety of potential reactions. In your example, if the plan is to leave the business to the sons, you can start asking whether there are other assets or other means of providing for the daughter.

You have to look for the potential assets that you can plug into potential contributions in an effort to get everybody—or at least the parents—feeling as though they’ve done something they can justify. It may not be an equal distribution of dollar value because the parents might believe that that’s not appropriate. However, there might be some “legacy” assets—a favorite piece of artwork or a vacation home—that could be earmarked for the daughter as a tangible symbol of affection, ameliorating at least some of the sting of economic inequality.

**Richman:** One of the challenges here ultimately is how you engage the patriarch and matriarch in these conversations. That is really the ultimate opportunity to become that source of strength and ultimately build primacy in terms of your relationship with the patriarch or matriarch. My experience is that patriarchs and matriarchs are very uncomfortable talking about these things with the next generation. Instead, they let the next generation become surprised when they’re gone.

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Michael, how have you succeeded in getting those sorts of people to be willing to engage in these kinds of difficult conversations with the next generation?

**Gooen:** Trust me, there are some horror stories. There is a much greater likelihood of intrafamily dispute and hurt feelings if the parents have not made any attempt to explain why different siblings get treated differently. For the parents, this is an opportunity to gather the family, to explain the values informing their plans and to invite everyone to voice their own views. If you really believe that your plan is the right thing, is it really that scary to say so to your own children? If you are able to communicate things effectively, you may preempt potential disputes, increasing the likelihood of preserving family capital and relationships.

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These conversations are really the last step, the best way one can maintain a degree of control in saying, “This is how I want to transfer my wealth.” At the end of the day, you’ve taken your best shot at looking at this pool of wealth that you’ve created, or at least preserved, over a lifetime—and putting it in the best possible shape and the best possible hands going forward.

If you don’t communicate—if you take your best guess in a vacuum—there’s a much greater likelihood for misunderstanding and for discord. And with discord comes dispute. And with dispute comes a different kind of tax, as it were. Instead of the uncle in Washington getting the value, it tends to be litigators. That can be a tremendously expensive tax on the family as well.

**Richman:** That’s a great way to frame it, as a different tax. Of course, the other different sort of tax that occurs is the tax on the emotional fiber and the ultimate fabric of the family that the patriarch leaves behind in terms of family connectivity and harmony.

The top advisors get patriarchs and matriarchs to start thinking more deeply about the implications of what they’re leaving behind. Their legacy may ultimately be defined in terms of the family connectivity and the harmony within the family. James, what seems to make the difference for success? What should advisors shoot for with their clients?

**Weiner:** While each family is unique the distinguishing characteristics of those that experience success are:

- Success does not mean that everyone has access to the family’s net worth statement. Perfection is an unacceptable standard.

- Decisions that turn out to be “not bad” for most of the family are admirable and reasonable goals.
- The collaboration between family members and their trusted advisors is a necessary element in creating a successful outcome.

**Richman:** I think that one of the important points we raise in this regard is that your real role is trying to master the art of being a collaborator and not trying to judge the situation. The patriarch or matriarch is more open to working with you in that collaborative format. Those who work in this role have forged tremendous interconnectivity and deeper bonds with patriarchs and matriarchs.

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Although that is fraught with peril if not done effectively, the potential opportunity is there to get connected to the next generation. I would suggest there’s no better way of doing just that than pursuing some of these activities. This gives rise to the question of who the client is. Michael, how do you approach this idea of connecting with the next generation and the issue of who the client really is?

**Gooen:** As lawyers, we always have to know who we represent. That’s true even if we have relationships with different members of the family. If the subject is the transition of Senior’s wealth, then typically we are having that conversation as Senior’s attorney. Is it a discussion where conflicts either can or will arise? Is it merely a matter of helping Senior communicate his wishes in a non-confrontational way? If there is a potential for conflict with other family members we represent, then I’d say my role as the attorney would be to make sure that that conversation gets facilitated. If the conflict becomes a reality, then typically we’d have to step back and let other types of advisors manage that conflict.

**Richman:** Michael, Dr. Weiner thank you for sharing your wisdom. To be sure, multigenerational estate planning is complicated and can lead to delicate conversations. We believe, though, that this is precisely where the best advisors live. Charismatic Advisors become a valued source of strength to the families they serve by deepening the conversation.

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Michael Gooen and Dr. James Weiner are not employees of Eaton Vance.

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