

Influencing the Behavior of Heirs
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“The parent who leaves his son enormous wealth generally deadens the talents and energies of the son.”

Andrew Carnegie.

“About half the practice of a decent lawyer is telling would-be clients they are damn fools and should stop”

Eli U. Root

To many planners and clients the central goal of estate planning has long been to “*pass as much wealth to the next generation, as tax-free as possible*”. But this goal often creates a misplaced emphasis which focuses attention on assets rather than family, on structure over perspective, on tax savings over family need.

Estate planning is not fundamentally about the dead and their assets. It is about the legacy left for the living. The author believes that the first goal of estate planning is “*to protect and preserve the client’s family*” - a focus that starts with the living, not the dead. It is not that asset preservation is unimportant. It just pales in significance to protecting family. Tax planning and asset protection strategies should be designed around the central goal of protecting and preserving family.

There is a central truism in the passage of wealth: “*Every inheritance (or lack of inheritance) will affect the recipient.*” The manner and the degree to which the recipient will be affected will vary from person to person. The impact can be positive or negative, but the impact will always occur. Increasingly, clients want to influence that impact. Warren Buffett may have been speaking for many clients when he said in 1986 *Fortune* article: “*[The perfect inheritance is] enough money so that they feel they could do anything, but not so much that they could do nothing.*” Mr. Buffet wants his wealth to create opportunities for his family, while avoiding the support of unproductive lives. He is not alone in his concerns.

If the goal of protecting and preserving family is combined with the truism that every inheritance will affect the recipient, a lingering question remains: Should clients attempt to influence the manner in which an inheritance will impact their heirs? This question can only be answered in the context of the client’s personal philosophies, relationship to the heirs, and the personality, family life and character of the heirs. A detailed discussion of these philosophical issues is largely outside the scope of this article. However, these issues are discussed in a number of articles at www.scrogginlaw.com.

There are many reasons why a client may want to influence the behavior of heirs. For example:

- X Protecting a child in a divorce-prone marriage by restricting control of family assets.
- X Protecting a handicapped heir from judgment errors by using an independent trustee.
- X Protecting underage heirs from the questionable judgment of others (e.g., an ex-spouse).

- X Placing a gatekeeper on the inheritance of a known spendthrift or drug abuser.
- X Encouraging grandchildren to attend college by setting up educational trusts.
- X Placing no contest clauses in wills to discourage heirs from challenging the client's dispositions.
- X Delaying distributions for young heirs until they are hopefully more financially mature.
- X Creating a private foundation to encourage family members to work with charities.

Should every client adopt strategies designed to influence the behavior of their heirs? Absolutely not. As planners, our role should be to thoroughly discuss with clients all of the planning options and issues. Ignoring the potential impact of an inheritance is a disservice to our clients. Unquestionably acquiescing to a client who wants to rule from the grave is also a disservice. Neither extreme is acceptable. To the degree the client wants to address these issues, this article is designed to help a planner understand some of the general approaches and perspectives.

[Books on Raising Children of Wealth](#)

- * Jessie O'Neil, [The Golden Ghetto](#) (1997).
- * Stephen Gadsden & Philip Gates, [The New Heirs Guide to Managing Your Inheritance](#) (McGraw Hill 1997).
- * Collier, [Wealth in Families](#) (Harvard University 2001).
- * Gallo, [Silver Spoon Kids: How Successful Parents Raise Responsible Children](#) (Contemporary Books 2001).

Why the Change? As shown by the list of books and articles at the end of this article, there is an increasing discussion of these issues in the marketplace. Among the reasons for this changing perspective are:

- X While extremely wealthy Americans, like Andrew Carnegie, often addressed the impact of inheritances on future generations, the lack of broad-based wealth in America meant that most middle-class parents (and their advisors) did not perceive that their meager bequests would have much impact - because the meager inheritance the clients received had not had much impact on their own lives. As reflected in the [Millionaire Next Door](#), there are more affluent individuals living today than ever before. According to Boston College researchers Paul Schervish and John Havens by the year 2050 between \$41 and \$136 trillion will have passed to heirs and charities. See: Schervish and Havens, "Millionaires and the Millennium: New Estimates of the Forthcoming Wealth Transfer and the Prospects for the Golden Age of Philanthropy," Social Welfare Research Institute, Boston College, Boston, MA, October 1999. Paul Schervish and John Havens have recently indicated that the expectations of the 1999 study are still valid. See: Havens & Schervish, "Why the \$41 Trillion Wealth Transfer Estimate is Still Valid," The Journal of Gift Planning, January 2003.
- X Until recent changes, even middle class clients faced a significant confiscation of assets from an estate tax. For example, during the 1970s the unified credit exemption amount was \$60,000 to \$175,000. Marital transfers in excess of \$250,000 could be subject to an estate tax. The annual exclusion was limited to \$3,000. In recent years transfer taxes have been sharply reduced, particularly by the tax act passed in 2001. By one report, less than 2% of deceased Americans are currently subject to an estate tax, and that percentage

is steadily decreasing as the unified credit exemption increases. As a result, clients are less concerned about the impact of a confiscatory transfer tax. The focus has often shifted to the legacy they are leaving behind.

- X In both the media and their own lives, clients have observed the family conflicts which have erupted over even small inheritances. A pivotal goal for many clients is to reduce family conflicts.

Because of their wonderful asset protection and tax-avoidance benefits, there has been a massive growth in the number of generation skipping and dynasty trusts. Virtually all discussions about these trusts have ignored how the massive asset accumulation in these trusts will affect future generations. It is the author's belief that this problem is the Achilles heel of generation skipping and dynasty trusts.

A Starting Point: When planning to influence the behavior of heirs, there are at least five primary issues which need to be addressed.

First, is the attempt to influence behavior an appropriate action? Obviously, this is largely a philosophical and personal issue, but it is one that must be addressed in the early stages of any planning. Is the client intentionally (or even unintentionally) ruling from the grave? It is the author's view that the influences should encourage rather than punish. There are obviously fine lines between encouraging "correct" behavior and punishing "incorrect" behavior. For example, does it matter that you are indirectly punishing the grandson who does not go to college by not providing him comparable support to what is received by the granddaughter who does attend college? Does giving the grandson comparable benefits encourage him to stay out of college?

Second, the client and the planner must clearly delineate the behavior being encouraged and any behavior being discouraged and review structures which accomplish these goals. Broad statements, such as, "I want to have good grandchildren" are of little help. For example, if a client wants to encourage descendants to work, does he match the earned income of all descendants? Is there equal matching for the grandchild of minimal income who works with the homeless and the high income corporate executive of a pornography company?

Third, the approach may need to include reasonable restrictions to avoid abuse. For example, plan provides extra spending money to encourage children to go to college, the plan might require that any child must be in school on a full-time basis and maintain a B- average.

Fourth, the plan may address the possibility of new conflicts or unintended results. For example, if the plan creates that a trust to provide unlimited college funding for all descendants, what happens when a grandson is working on his fourth masters degree in advanced basket weaving? As a further example, greedy heirs may want to bust the plan to gain control over an inheritance. To discourage such attacks, the planning documents might include no contest clauses and indemnification of Trustees provisions.

Fifth, the plan must include counter-balancing influences and flexibility to assure that the

heir is not totally at the mercy of an inflexible technique or domineering decision makers. An unchangeable approach is bound to create problems as the law, families and society change. Among the ways to add flexibility is through a limited power of appointment, which can be used to allow heirs to modify the plan for future generations. The plan should also have built-in checks and balances, such as the ability of heirs or others to remove trustees. For more information on flexibility in planning see: Barry A. Nelson & Rosario F. Carr, "Drafting to Achieve Maximum Flexibility in the Estate Plan," Estate Planning, July 1998; Neill G Keydel & Frederick R. McBryde, "Building Flexibility in Estate Planning Documents," Trusts & Estates, January 1996.

Values Count, But Not Too Much. Values and character generally lie at the core of a parent's concern about how an inheritance will affect his or her children or grandchildren. Most parents do not want to encourage an unproductive descendent to live a lavish, unearned lifestyle off an inherited wealth. A U.S. Trust study of affluent Americans found that 91% of the women and 80% of the men expect their children to support themselves entirely from their own earnings. You can find this study and similar studies at the www.ustrust.com.

When discussing values as part of estate planning, it is critical to recognize that the client's goal should be protecting and preserving family, not mandating that the client's values be perpetuated. A parent's attempt to enforce his or her own value systems on future generations may be counter-productive. For example, a parent who provides that anyone who marries outside of his or her race, ethnic group or religion is disinherited may be creating a conflict-laden future for his or her heirs.

Many critics argue that any attempt to influence the behavior of heirs is a not-so-subtle attempt to rule from the grave. There are clients whose desire is to rigidly control the lives of their inheritors after their death. However, if the clients' goal is to protect and preserve family, they are not generally seeking to reach a moldy hand out of their grave. Instead, the desire may be more closely tuned to Warren Buffet's quote: "*[The perfect inheritance is] enough money so that they could do anything, but not so much that they could do nothing.*" Mr. Buffett does not want to control his children with his wealth, he just does not want it to harm them.

The difficulty lies in how to influence behavior, without exercising (intentionally or unintentionally) too much moldy control. The passage of wealth to children will not necessarily destroy them. The placement of restrictions on an inheritance is not necessarily controlling from the grave. As with any estate planning approach, it is simply a matter of making reasoned and informed choices designed to best protect the family.

Contrary to the arguments of many critics, estate planning has always included structures which influenced the behavior of heirs. For example, a Q-TIP marital trust by its nature will limit the options of a surviving spouse who cannot access the principal of the trust and will delay the ultimate distributions to children - effectively influencing the family's behavior.

The Non-Binding Approaches. When clients are talking about influencing the behavior of

heirs, the choices can be binding or non-binding. On the non-binding side, clients should consider the use of ethical wills and family mission statements. A ethical will is a free-form document which expresses the hopes, insights and concerns by an older generation to its heirs. You can obtain help in the preparation of an ethical will using Ethical Wills: Putting Your Values on Paper (M.D. Presus Publishing 2002). Other information on ethical wills can be found at www.ethicalwill.com.

Family mission statements tend to be more focused than Ethical Wills. Most are directed to particular family issues, such is how children and parents in a blended family will interact, or how family members will be allowed to participate in the family business. For example, see Craig E. Aronoff and John L. Ward, Developing Family Business Policies: Your Guide to the Future (Family Enterprise Publishers).

Clients should consider having family meetings where ethical wills, family mission statements and overall estate plan are discussed with family members. However, not every family should hold such a meeting, especially if past history demonstrates that it will only create new sources of family conflict.

The principal limitation of ethical wills and family mission statements is their non-binding nature. If there are serious concerns about the impact of an inheritance upon the inheritor, clients may want to adopt approaches that are legally enforceable.

Charitable Involvement. There has been an explosion of charitable transfers in the last several years. According to Paul Schervish at the Social Welfare Research Institute at Boston College: “A growing number of wealthy Americans are shifting their financial legacies from heirs to charity.” According to Mr. Schervish from 1992 to 1997 the value of charitable bequests went up 110% while bequests to heirs only grew 57% and for estates above \$20 million, charitable bequests went up 246% while heirs only received 75%. Many clients recognize that the charitable involvement can impact the character, values and personality of family members. In a US Trust study, 82% of affluent parents encouraged their children to be involved in charitable work.

The July 24, 2000 edition of Time magazine in “A New Way of Giving,” noted that affluent Americans are not just giving to charity, they are making sure the funds are handled in ways they approve. Clients increasingly want keep their family in control of the ultimate disposition of any significant charitable funds. As a consequence, many clients are increasingly using donor advised funds, supporting organizations, private foundations and charitable remainder trusts in which family members can change the charitable remainderman.

The Restraint Continuum. Any legally enforceable attempt to influence behavior by its nature includes some form of restraint on the inheritance. These restraints may be conceived of as a “Restraint Continuum”. On one extreme lies the outright, fee simple, unfettered bequest to family members. At the other extreme lies the disinheritance of family by the donation of family

assets directly to a charity. Most planning occurs between the extremes.

In order to create a structure to influence behavior the planner must have an understanding of the basic elements of every estate planning technique. Virtually every asset can be broken into four parts. The division of an asset into these four elements lies at the core of every estate planning technique. These elements are:

- X Control. The ability to control the asset, its use and disposition (e.g., the owner of all the voting stock in an S corporation may control the corporation, while only owning 5% of the equity of the business).
- X Income. The ability to receive the income (e.g., salary from the family business) or current benefits (e.g., use of a family vacation home) from the asset.
- X Current Equity. The current value of the asset if it were sold.
- X Future Appreciation. The value that the asset will grow to over time (e.g., charitable remainder annuity trust may pass all future appreciation to a charitable remainderman).

Each of these elements can be passed to heirs in at least five different ways. These approaches include:

- X Denied. The benefit of the element can be denied. For example, a total return trust might provide a unitrust income right to a child, but deny the child any right to other distributions.
- X Limited. The right to the element may be restricted in some manner. For example, a parent may have an short term interest in a residential GRIT, but be limited in the ability to use the home after the trust terminates.
- X Discretionary. In many cases another party will have the subjective power to decide the manner in which the heir receives the benefits of the asset. For example, in a discretionary “spray” trust, the trustee may be entitled to “spray” the income and/or corpus across a class of beneficiaries, with the decision being at the largely unfettered discretion of the trustee.
- X Delayed. The benefit of the element may be delayed. For example, delaying benefits based upon reaching designated ages or certain defined events (e.g., attending college).
- X Granted. The heir may have the current use of the element. While the heir may have the benefit of that particular element, the heir will not necessarily have the benefit of all four elements of asset rights. For example, a trust may be created which provides that all of the current income must be distributed to a named beneficiary, but deny that beneficiary the right to control benefits of current equity (e.g., corpus distributions) or the rights to future appreciation (e.g., a generation skipping trust).

The attached chart demonstrates how these elements are normally allocated to a current beneficiary using standard estate planning techniques. Obviously, the chart is a bit simplified, but

it's purpose is not to provide an exact delineation of each technique. Instead, it demonstrates how the elements of an inheritance might be restrained - and thus influence the behavior of any heir. None of these planning techniques are new. What is new is the adaptation and reconfiguration of these techniques to satisfy non-tax , disposition purposes.

Obviously, the discussion to this point has been somewhat esoteric. Some examples may clarify the process. This article provides only some of the potential solutions to illustrate how the behavior of heirs can be impacted by restrained inheritances.

Education. A married client is concerned about the education of his grandchildren and wants to encourage them to obtain undergraduate and graduate degrees. There are a number of approaches which a client should consider, including:

The client might place annual exclusion gifts of \$22,000 (\$11,000 each for the client and spouse) in section 2503(c) minor's trust for each grandchild.

- X *Control:* Delayed (until age 21)
- X *All other Elements:* Discretionary (in the trustee's hands) or Delayed (to age 21)

Unfortunately, such trusts require that the funds be distributed to each grandchild by the time they reach age 21. Access to the funds at age 21 might encourage children to leave and use the money for other purposes, like backpacking across Europe. Moreover, the trust creates no direct incentive for grandchildren to go to college. To place more control in the parent's hands, the client might instead fund a Section 529 plan for each of his grandchildren with the parents serving as the designated "account owners" of each 529 plan. The parents would have the authority to transfer the 529 plan benefits to those grandchildren which did go to college, denying benefits to those that did not. As long as the recipient is not of a younger generation than the original beneficiary of the 529 plan, the transfer will be a non-taxable event. See proposed Treasury Regulation section 1.519-1(c).

- X *Control:* Denied (in the parent's hands)
- X *All other Elements:* Discretionary (in the parent's hands) or Denied (the parents could terminate the 529 Plan rights of any beneficiary)

But section 529 plans do not cover all college related costs (e.g., they do not cover out of pocket costs and travel expenses) and do not cover pre-college costs (e.g., as private schooling). The client might consider setting up an educational trust in which trustees have the subjective discretion to decide how grandchildren receive money educational purposes (e.g., private pre-collegiate education). The evaluation might include an examination of the grandchild's ability to fund the education costs. Included in the trustees' discretion might be "spending money" for grandchildren who maintain a 2.5 average college grade point. The trust might provide that it would fund private K-12 schooling, one undergraduate and three graduate degrees. When the youngest grandchild reaches age 30, the trust could terminate and payout all remaining funds equally among the grandchildren. A majority of the grandchildren might be given the authority

to remove the trustee, without cause.

- X *Control*: Limited (in a removable trustee's hands)
- X *All other Elements*: Discretionary (in the trustee's hands) and Delayed (to age 30)

There are also some ways that the client might make the plan better, including:

- X The plan should also consider the fact that some beneficiaries might not attend college, but would attend vocational school. Thus, the trust could also fund educational benefits for heirs who seek a vocational education.
- X The client might also consider matching the earned income of young beneficiaries (e.g., for summer jobs) provided they place the funds in a ROTH IRA or Coverdell Education IRA, with the intent that the funds help cover the future cost of education.

Spendthrift Child. Assume a client has a son who is a proven spendthrift. The client wants to provide income to the child, but does not want to give the son control over or access to significant funds. Among the planning alternatives are:

The client might place the spendthrift's inheritance in a family limited partnership and place one or more family members in charge of the partnership as general partners. The general partners could be given all authority to decide how the assets will be handled and the timing and amount of any distributions to the son.

- X *Control*: Denied (in a general partner's hands)
- X *All other Elements*: Discretionary (in the GP's hands)

But such a structure may create significant conflicts within the family. It may be relatively inflexible and may be taxable when the spendthrift dies. Sibling rivalries and other unrelated issues could develop between the spendthrift and the general partners. Instead, the client could place all of the funds in a generation skipping trust, naming a family member and an institutional trustee as co-trustees. The individual co-trustee might be given the ability to remove and replace any institutional co-trustee. The trustees might be given discretionary authority to decide whether income or principal distributions be made to the spendthrift, to his descendants or be accumulated. The spendthrift could be given a testamentary limited power of appointment to appoint the funds at his death to either his descendants or charities in such manner as he may decide.

- X *Control*: Limited (in a removable trustee's hands)
- X *Future Appreciation*: Limited (by testamentary power of appointment)
- X *All other Elements*: Discretionary (in the trustee's hands)

If the parent wanted a definite amount of income to accrue to the spendthrift son, the trust might be created as a total return trust, or the trust instrument might require that all of the trust income be distributed to the spendthrift.

- X *Control:* Limited (in a removable trustee’s hands)
- X *Income:* Granted
- X *Equity:* Discretionary (in the trustee’s hands)
- X *Future Appreciation:* Limited (by testamentary power of appointment)

Unstable Marriage. Assume a client has a daughter who has been divorced two times and is working on her third marriage. The client wants to make sure the daughter is provided for, but does not want the latest husband-in-waiting to inherit all of the family assets or to marry the daughter in hope of accessing those assets. The client might adopt the same approach as taken with the spendthrift child, but provide that the trustees have the ability to terminate the trust early. If the new marriage stabilized, the family member/family friend trustee could terminate the trust and distribute the funds to the child.

- X *Control:* Limited (in a removable trustee’s hands)
- X *Income:* Granted
- X *Equity:* Discretionary (in the trustee’s hands)or Delayed (if Trustee decided)
- X *Future Appreciation:* Limited (by testamentary power of appointment)or Delayed (if Trustee decided)

Good Children/Concerns About Grandchildren. Many clients have children whose personality is already developed and the clients have no concern about the adverse impact of an inheritance on these children. However, for tax and asset protection purposes, the client wants to use a generation skipping trust. The client might consider a generation skipping trust with the following provisions: Each child and his or her family has a separate trust. Each trust has a “spray power” allowing the trustees to distribute the income to the child or any grandchild (e.g., to fund college for grandchildren who will probably be in a lower tax bracket). Trustees may be the child and an institutional Co-Trustee. The children retain the right to remove and replace the institutional trustee with another institutional trustee. At the children’s death, the trust is held for the grandchildren in a restricted trust which allows for discretionary distributions to grandchildren only for specific events (e.g., starting a business, education, medical needs). To add flexibility, the children, prior to death, can exercise a limited power of appointment to change the manner that the grandchildren will receive benefits from the trust. If the power of appointment was not exercised, each grandchild’s trust might be terminated and distributed to grandchildren as they reach age 50.

- X *Control:* Limited (in a removable co-trustee’s hands)
- X *Future Appreciation:* Limited (by a power of appointment)
- X *All other Elements:* Discretionary (in the co-trustee’s hands)

Safety Net. The client has read the demographics and political tea leaves and is concerned that the ability of family members to receive governmental benefits is quickly diminishing. She does not want to provide a unearned lifestyle to heirs, but does want to create a safety net for her children and grandchildren. She does not want to provide benefits beyond her

grandchildren. A trust could be created in which the trustee's have absolute discretion to make distributions among the client's descendants, or hold the funds in the trust. The trust might provide broad directions on how the grantor would want distributions to be made (e.g., to provide for basic medical, education, living and long term care benefits for those who are unable to afford them). A super-majority (e.g., 80%) of the descendants might have the right to remove any trustee with approval of a least one of the remaining Co-Trustees. After the death of the last of the client's grandchildren all the trust funds could distributed to a designated charity.

- X *Control*: Limited (in a removable trustee's hands)
- X *Future Appreciation*: Denied or Limited (passes to a charity)
- X *All other Elements*: Discretionary (in the trustee's hands)

The Family Business. For many entrepreneurs, the family business is the largest single asset of their estate. As a result the owner often passes part of the business to other family members who are not involved in the business. During the entrepreneur's lifetime they may have been able to maintain peace in the family and serve as the "benevolent dictator" of the family business. Unfortunately, this powerful role disappears with the entrepreneur's death or incapacity. Sibling rivalry and other issues begin to come to the fore, particularly between those who are operate the business and those who are outside the business. This conflict is often inevitable as each family member attempts to direct his or her own financial destiny and feels increasingly unable to do so because of the common business ownership with other family members. This is not a matter of "good" and "bad" family members. It is a matter of increasingly different life goals - a normal part of life.

The outsiders may feel that the compensation and perks provided to the insiders are "excessive." Outsiders will question the business decisions (e.g., capital expenditures, hiring and firing of family or friends, expansion plans) of the insiders even when they know little about the business's needs, operations or competition. Outsiders often believe that the income paid to them should match the compensation paid to the insiders. Meanwhile, the insiders (who may feel they are working much too hard) resent that their sweat is increasing the equity value of the outside family members who are continually asking for more income to which they are "not justly entitled". The insiders may fail to see that the outsiders have a right to a return on their "investment" in the business. Many family businesses have paid huge legal fees because of these conflicts and/or have been forced to sell the business to alleviate the problem.

The solution lies in setting up a structure in the estate plan which assures that those in the business own and control as much of the business as possible, while giving outsiders other assets so that they can effectively control their own financial destiny. Life insurance is often a necessary element of this planning. This planning process traditionally must be done by the entrepreneur during life so the entrepreneur can dictate the terms to family members. Often this process will recognize the contribution to the business of those who have long term involvement by passing a disproportionate part of the business to the insiders.

This is actually two tiers of influence. First, the client has adopted a structure to reduce

family conflicts over the business. Second, once the decision has been made to pass business interests only to those in the business, the planner must address the manner in which each group will receive benefits. For example, if insurance is used to equalize benefits, do the children own it directly, or is it placed in a generation skipping life insurance trust? If a family business is being passed to those who run it, does the family adopt a Family Mission Statement on how family members will be entitled to be employed in the business?

Conclusion

Creating a plan to influence the behavior of heirs cannot be done cavalierly. It requires a detailed knowledge of the available planning techniques and a thorough understanding of human psychology and the client and the client's family. It will from time to time require the planner to follow Mr. Root's advice which was cited at the beginning of this article. It will also require more time than a standard-form, tax-avoidance driven strategy.

Will the adoption of these techniques assure a "perfect legacy"? Perfection is beyond the grasp of any of us. No approach can produce perfect descendants. These concepts do hold the potential for minimizing the negative legacy of an unfettered inheritance - by recognizing the inherent risks of passing unrestrained wealth. Addressing these issues can limit the exaggerations which often occur when significant wealth is passed, without thoughtful consideration, to the future generations.

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Materials on Wealth and the Impact of an Inheritance

Books:

- * Andrew Hacker, Money: Who has How Much and Why,
- * Thomas J. Stanley, The Millionaire Next Door and The Millionaire Mind
- * Scott C. Fithian, Values Based Estate Planning.
- * John J. Scroggin & Robert Littell, The Family Incentive Trust, National Underwriter.
- * William H. Gates, Sr. and Chuck Collins, Wealth and Our Commonwealth,

Articles:

- * "Should You Leave it To Your Children." *Fortune*, September 29, 1986.
- * "The Perils of Family Money," *Forbes*, June 19, 1995.
- * "The Market Value of Family Values," *Cato Journal* (Winter 1997); www.acfc.org/essay/cato1
- * "The Disinheritors," *Forbes*, May 19, 1997.
- * "Two Cheers for Materialism," *Wilson Quarterly*, April 1, 1999.
- * "Inheritance and Sloth," *Forbes*, October 11, 1999.
- * "Family Feuds," *Financial Planning*, November 1999.
- X "Family Incentive Trusts," *Journal of Financial Services Professionals*, July 2000.
- * "Passing it On: Will Older Americans Show Their Children the Money?" *Journal of Financial Planning*, August 2000.
- * "The Psychological Impact of Sudden Wealth," *Journal of Financial Planning*, January 2001.
- * "Unwise Wisdom: Leave All Your Money to Your Children," *Wall Street Journal*, page R11, January 29, 2001..
- * "Giving Something Back: A Golden Age of Philanthropy May be Dawning," *The Economist*, June 6, 2001;
- * "Rich Man's Burden: Too Much Money Can be Bad for You in All Sorts of Ways," *The Economist*, June 16, 2001.
- X "Tough Will Saves Troubled Daughter," *Trusts and Estates*, July 2002.
- X "Leaving a Legacy: A Client's Search for Meaning," *Journal of Practical Estate Planning*, September 2002.
- X "Restraining an Inheritance can Accomplish a Client's Objectives," *Estate Planning*, March 2003.
- X "Six Dimensions of Wealth: Leaving the Fullest Value of your Wealth to Your Heirs," *Journal of Financial Planning*, April 2003.

The Restraint Continuum

(normal benefits to a current individual beneficiary or owner)

<u>Technique</u>	<u>Control</u>	<u>Income</u>	<u>Equity</u>	<u>Appreciation</u>
Fee Simple Bequest or Gift	Granted	Granted	Granted	Granted
<u>Mandatory Income Trusts</u>				
2503(c) Minor's Trust	Limited/Delayed	Granted	Limited/Delayed	Limited/Delayed
Staggered Principal Payout	Limited/Delayed	Granted	Limited/Delayed	Limited/Delayed
Q-TIP Marital Trust	Limited/Denied	Granted	Limited/Denied	Limited/Denied
Total Return Trust	Limited/Denied	Granted/Limited	Limited/Delayed/ Denied	Limited/Delayed/ Denied
GST for 1 Generation	Limited/Denied	Granted/Discretionary	Limited/Denied	Limited/Denied
Dynasty Trust	Limited/Denied	Granted/Discretionary	Limited/Denied	Limited/Denied
<u>Discretionary Trusts</u>				
Staggered Principal Payout	Limited/Delayed	Granted/Discretionary	Limited/Delayed	Limited/Delayed
GST for 1 Generation	Limited/Denied	Discretionary	Discretionary	Limited/Denied
Dynasty Trust	Limited/Denied	Discretionary	Discretionary	Limited/Denied
Incentive Dynasty Trust	Limited/Denied	Limited/Discretionary	Limited/Discretionary	Limited/Discretionary/ Denied
<u>Ownership Restrictions</u> (restraint on underlying assets)				
Minority Ownership	Limited/Denied	Limited/Denied	Granted/Limited	Granted/Limited
Family Limited Partnerships	Limited/Denied	Limited/Denied	Granted/Limited	Granted/Limited
Non-Voting Ownership	Limited/Denied	Limited/Denied	Granted/Limited	Granted/Limited
Pre-Nuptial & Post Nuptial	Denied	Limited/Denied	Limited/Denied	Denied
<u>Charitable Transfers</u>				
Charitable Lead Trust	Limited	Denied (except charity)	Delayed	Delayed
Charitable Remainder Annuity Trust	Limited	Granted/Limited	Limited/Denied	Limited/Denied
Charitable Remainder Uni-Trust	Limited	Granted/Limited	Limited/Denied	Limited/Denied
Supporting Organization	Limited	Limited/Denied	Denied	Denied
Private Foundation	Limited	Limited/Denied	Denied	Denied
Donor Directed Fund	Limited	Denied	Denied	Denied
Direct Charitable Gift	Denied	Denied	Denied	Denied

Note: To be workable, the table over-simplifies the restraint options available with each planning technique.