

FROM THE UPCOMING ISSUE

Estate strategies of the super-wealthy

Lynne Marek/Staff reporter

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CHICAGO — Attorneys to the wealthy are pushing aging American millionaire and billionaire patriarchs and matriarchs to loosen their grip on family fortunes earlier than they might otherwise, and are finding new ways for them to pass the money to adult children and additional generations.

With Americans living longer and having more money in their 50s, 60s, 70s and 80s, increasing attention is being devoted to the transfer of wealth, said Timothy Lappen, an attorney for Jeffer, Mangels, Butler & Marmaro in Los Angeles. Lappen works for some clients who made their fortunes in the dot-com era and now are trying to manage it.

"The level and extent of Americans involved in sophisticated planning has increased," agrees Larry Richman, an attorney with Neal Gerber & Eisenberg in Chicago.

Private trust companies, "dynasty trusts," family limited partnerships and trusts used to start new businesses are becoming increasingly popular ways to disseminate wealth.

Tax court decisions during the past two years have shed light on needed documentation for the trusts, though lawyers are still waiting for further Internal Revenue Service (IRS) guidance on some points.

The interest in succession planning and wealth transfer has risen in recent years with the movement of baby boomers toward retirement and an increase in the number of high net-worth families, say estate and tax lawyers, sometimes referred to as family office attorneys, who serve clans worth \$100 million or more.

Follow-on generations — or generations that come after the original money-maker — are reaching older ages and stacking up under the matriarchs and patriarchs, making it possible for parents to be in their 90s with children in their 60s and grandchildren in their 30s, and raising a host of new issues, they said.

"The involvement of so many generations has led to an interest in creating family structures that heretofore were not actively considered," said Richman, whose firm works for the Pritzker family, which owns the Hyatt hotel chain among other things.

One increasingly attractive option is the private trust company, which allows families to set up their own company to manage the family wealth.

Such a company lets more than one generation oversee business and investment matters and focuses attention on just one client, Richman said. Lawyers expect the IRS to issue guidance on the ownership structure of private trust companies because it has stopped responding to private inquiries, he said.

Another structure that is gaining ground is the family limited partnership, partly because the IRS in January issued a 24-page document that discusses various tax court cases related to limited partnerships and makes rules regarding them clearer, said Thomas Handler, the chairman of the advanced planning and family office practice at Chicago-based Handler, Thayer & Duggan.

A family limited partnership is a corporate entity that will hold a family's assets for future generations.

Handler recently encouraged another of his clients to consider giving more control of his limited partnership to his children after the family, headed by a matriarch, reaped gains from selling a business, he said. The move would provide tax benefits and involve more generations, and teach the children about handling the wealth, said Handler, who has been a lawyer in the area for 23 years.

While the "dynasty trust" has been available for years, more families are using it now as state laws

prohibiting the trusts from lasting longer than a little more than a lifetime trustee, said Robert Colvin, a Houston solo practitioner in the area. The trusts let families share the wealth for many generations to come without penalty in a system designed to discourage skipping a generation in handing money down, he said.

There are also more instances of families using trusts to capitalize new businesses so that children of successful parents can launch their own enterprises without being tied to family companies' subsidiaries, Colvin said.

Such ventures allow sons and daughters to benefit from parents' knowledge while creating new wealth for the next generation, he said.

"There's no reason to further increase the size of Dad's estate once he reaches a certain level," Colvin said.