Top estate-planning errors of high-net-worth business owners

BUSINESS WEALTH WATCH

DAVID SUNG

Affluent investors tend to be savvy and successful, but they may have a big blind spot when it comes to estate planning

Having a sound estate plan is one of the most important things you can do for your family, yet, based on my experience, approximately 40% of high-net-worth individuals and families fall short in their estate planning efforts.

Many affluent business owners avoid the subject of estate planning because it touches on uncomfortable issues – mortality and making sure loved ones are taken care of. But high-net-worth individuals owe it to themselves and their families to regularly review their estate plans and to avoid canned solutions that don't fit their individual needs.

Whether it's indifference, outdated advice or a combination of both, one thing is common among many high-net-worth individuals: they face a variety of wealth-related issues that require ongoing and updated professional advice, and they aren't getting it.

No two family scenarios are the same, and this is especially true when it comes to wealthy families with high net worth. As more money is involved, more risk and complexity usually come along with it.

Here are five common estate-planning mistakes that high-net-worth families make:

- **Having outdated wills that are no longer valid.** Many clients don't realize that they need to review their wills at least every five years or whenever there's a major life change in their family. These life changes include: marriage, divorce, birth, death and a major purchase or sale. It's important to monitor your plan and make the necessary changes as your life circumstances change.
- **Having advisers work on an estate plan independently rather than employing a more holistic approach.** Often, a client will have various advisers each working on the estate plan in isolation. While each adviser is likely competent and trusted, it isn't necessarily ideal. The most effective estate planning involves a team of advisers with wealth management expertise working together and sharing their knowledge of your situation to develop the plan that works best for your family and your legacy. This team may include advisers such as an investment counsellor or financial adviser, lawyer, accountant, insurance specialist or in the case of business owners, other applicable business succession advisers. Ideally these professionals will work together to develop a customized estate plan for you.
- **Giving little thought to how to give money.** Putting a plan together is not solely about how much money you want to give and to whom; it's also about how to develop and implement an effective plan in the event that something happens to you. If you're a high-net-worth individual, you'll likely require a will, holding company, family trust planning, insurance, private business succession planning (if self-employed), wealth transfer strategies, tax reduction advice and planned giving strategies.
- **Underusing testamentary trusts as a planning strategy.** A testamentary trust literally means "a trust in a will" and is a legal arrangement made in advance with the trustor to oversee assets at his or her death. Testamentary trusts offer significant opportunities for income tax savings. Typically the trustee is given complete freedom to sprinkle the income and capital of the trust among any one or more of the beneficiaries as he or she thinks fit.

However, even the most sophisticated investors may not fully understand the complex and time-consuming demands placed on a trustee, who is charged with carrying out the directives of the trust. Responsibilities can include investing trust assets, filing tax returns and distributing trust assets to beneficiaries – usually a surviving spouse and adult children.

It appears most investors prefer asking a family member to carry out their wishes, and may perceive relatives as more dedicated and compassionate. Unfortunately, family members are not always competent to carry out the duties of trustee, and their decisions can be swayed by family dynamics. In many circumstances, having arm's length financial advice can be useful.

- **Not involving family members early and often in the planning process.** With most families, there is a lack of communication around estate planning with the potential heirs. This can wreak havoc later when it's time to divide and allocate the assets. Communicating with and involving family members early leaves less of a chance that your well-meaning wishes are not left misunderstood, reducing the chances of survivors arguing with each other over what they "thought" you wanted versus what you tell them you want.

Be aware of estate planning opportunities and avoid common estate-planning mistakes. If you're wealthy, seek credible professional advice from experts that specialize in wealth management and estate planning. ■

David Sung is the president of Nicola Wealth Management, a Vancouver-based financial planning firm.