

# 10 Eye-Opening Questions To Protect Your Wealth

And Help You Discover the Truth



#### **Question 1:**

How do you want to be remembered?

#### **Question 2:**

If something happened to you tomorrow, what would happen to your business?

#### **Question 3:**

Is your estate plan public or private?

#### **Question 4:**

Is your family wealth protected from in-laws and outlaws?

#### **Question 5:**

Have you calculated your estate settlement costs to your family should you pass away?

#### **Question 6:**

Are you comfortable moving forward with the legal documents you currently have in place?

#### **Question 7:**

How often does your advisor team meet as a unit to strategize on best practices for your family?

## **Question 8:**

Do your children possess the necessary financial literacy skills and values to be good stewards over the wealth they will inherit?

#### **Question 9:**

Has your family established an estate bank?

#### **Question 10:**

Has anyone calculated the net composite rate of return of your investment portfolios?



This question is perhaps the most important one that wealth creators, who are usually the matriarchs or patriarchs of the family, should consider.

Most often, families tell us that they would want to be remembered fondly or for doing the right things. But wealth creators of high-net-worth families usually have additional complexities and dynamics that they must manage in order to create the legacy they desire. Wealth creators are highly sensitive to the effects that the family's wealth will have on future generations of the family—but without proper attention, that wealth can easily become a negative force for the family. Money may be the catalyst to these breakdowns, but it is always about more than just money. And if this negative result occurs, much of the blame often falls squarely on the shoulders of wealth creators, whether it is justified or not.

From our time working with families, we have seen the following barriers to leaving a desired legacy:

- Lack of a family constitution or mission statement.
- Lack of clarity on changing or different generational values.
- Overbearing wealth creators.
- Insufficient intergenerational communication about the family wealth.
- Failure to cultivate passions and callings in future generations of the family.
- Failure to develop adequate financial literacy skills in future generations.
- Lack of family involvement in the community and social fabric.
- Lack of mentoring future generational family leaders or stewards.
- Loss of family wealth due to unnecessary tax burdens.
- Falling victim to the "shirtsleeves to shirtsleeves in three generations" proverb.

# WHAT ARE THE IMPLICATIONS?

Since wealth creators are usually the matriarchs or patriarchs of the family, they're uniquely positioned to initiate steps that address these issues and begin the process of ensuring they will be remembered positively. Without addressing these risks proactively, wealth creators are more susceptible to leaving a negative legacy or leaving the family bereft of future leaders that can continue to maximize family wealth for multiple generations.

More importantly than money or assets, not taking steps to address this question can result in a breakdown of family relationships and governance. Matriarchs and patriarchs are often the glue that holds the family together, and when they are no longer here to be that guiding force, unresolved family conflicts lying dormant can be released to the detriment of the family.

# THE POWER OF A STORY

If families wish to leave a positive legacy, they should begin conducting regular family meetings to develop strong intergenerational communication. Wealth creators should also document the family-wealth creation story so that future generations can understand the hard work and sacrifice that was put into creating it. Stories, both written and oral, are powerful tools for bringing family together and should not be overlooked. Much of the family-wealth creation story can be told in the family's mission statement or constitution.

Families facing leadership questions should develop mentoring programs to assist future generations in cultivating passions and vision for the family wealth and the skills to make it reality. A failure to prepare heirs for managing the family wealth is one of the leading causes of the involuntary loss of wealth as it passes to future generations.

Families should also proactively plan for any intergenerational tax exposure, such as estate or inheritance taxes, and communicate these plans to future generations. Children who end up having to write an unexpected check for inheritance taxes is one unfortunate way wealth creators have left a less than positive legacy.



It's not uncommon to see business owners spending so much time working and growing their business that they fail to consider this question and its impact on their families, employees, and corporate legacy. A failure to answer this question is particularly important for the owner's family since the business is typically its largest asset and primary source of cash flow.

Protecting and transferring your business' value to your family is, therefore, crucial to making sure a lifetime of hard work isn't involuntarily lost. If you are a business owner and haven't answered this question yet, you shouldn't feel bad. There are only so many hours in the day, and most business owners don't have the time, temperament, or training to devote to this task. Still, if you want to make sure your family receives the full value of your business interest, it's vital that someone watch over this for you.

# WHAT ARE THE IMPLICATIONS?

A failure to answer this question also tends to coincide with inadequate succession or exit plans. The particulars of a company's succession plan differ depending on the ownership structure of the business. If you are a multi-owner business, you hopefully have a buy/sell agreement in place, but when was the last time you reviewed it? A review of these agreements often reveals that the business doesn't have enough assets to sufficiently fund a transaction should the agreement be triggered, or it uses outdated data to determine the business' value. The agreements also often fail to consider buy/sell triggering events beyond the death or disability of an owner and aren't tax efficient. If you are a family business, have you adequately prepared the next generation to fill your shoes, and what is the risk to the family if they aren't? If you are the sole owner of a business, have you objectively looked at how much of your business' value is linked to your skill, reputation, goodwill, and whether a buyer would pay full value for it should you pass away suddenly, and your spouse be forced to sell it?

While these questions are challenging to answer, the implications of not doing so are critical. Involuntarily losing business value, having your corporate legacy tarnished, creating unnecessary conflict amongst partners, key employees, or family are just some of the real-life stories that have happened to business owners who failed to answer the question of what would happen to their business should something happen to them.

#### 2 STEPS TO TAKE

- 1) Business owners should begin by regularly reviewing their existing legal documents, such as buy-sell agreements, bylaws, and operating agreements. They should consider various what-if scenarios and how such a scenario would impact their business and its value. Once this impact is determined, owners should take steps necessary to protect their business' value for their families and employees.
- 2) Business owners should start with the endgame in mind and think about their succession or exit plan as early as possible and revise it as the business grows or circumstances change. Whether the business owner intends to sell to third parties, gift stock to future generations, sell internally to management, file for initial public offering, or sell to employees in an employee stock ownership plan, there are a plethora of succession options to choose from, each with its own unique characteristics that impacts a family's generational wealth plan.

If you want to ensure that the future of your business remains intact, you must answer this question and plan for it.



Have you ever heard the story about the celebrity or athlete who passed away only to leave behind a very public and contentious estate litigation? Of course, you have. These stories also tend to describe in detail the size of the celebrity's estate and who they left it to. It's very common in these stories for distant relatives to come out of the woodwork to stake a claim against the estate. These estate plans make for great headlines.

Have you ever wondered why these stories become public? It's because the decedent's estate plan was designed to go through the public sphere and not the private one. Families of wealth that include prominent figures in their communities are often highly concerned about maintaining their privacy and are shocked to find out that in some cases were they to pass away, their estate plan would be anything but private.

Most estate plans that become public knowledge do so because they go through the probate process. Probate is the process of settling one's estate. This process is supervised by the surrogate court in the county of the deceased's residence and is public knowledge. Except for certain specific types of property, any property owned in your personal name at your death is subject to this process. If you pass away and your estate plan consists of only a last will and testament, or if you don't have one at all, you'd very likely have some, if not most, of your estate subject to the probate process.

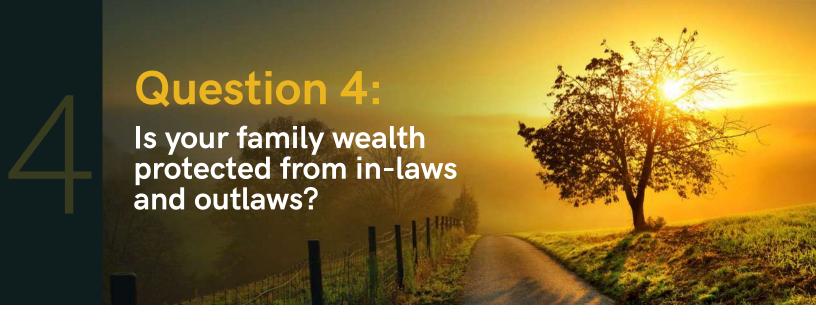
# WHAT ARE THE IMPLICATIONS?

If your estate is subject to probate, anyone can search court records and retrieve copies of your will or other documents filed with the court. They can see how much your estate was worth and who you left it to. Probate can also be more time consuming and cost the family additional expenses in the form of legal fees. Furthermore, if the estate consists of property located in a state other than where the decedent resides, that property may also need to be probated in that state, adding additional cost and delay. This is most common when the family owns real estate in multiple states.

Because the probate process is public, the family may also be more susceptible to the claims of creditors or an estate challenge, as anyone wishing to make a claim against your estate can find out what assets you have and who they were left to. And because the person creating the last will and testament is no longer alive to defend the gifts made or explain his or her intent, it is often easier for individuals to sustain a challenge against the estate.

#### **ENSURE PRIVACY**

Fortunately for families, there are methods to make your estate plan a private process. This most commonly involves the use of trust vehicles as the foundation of your estate plan. If you are concerned about keeping your estate plan a private process, consult your advisor team to take the next steps.



One of the most frequently discussed topics with high-net-worth families surrounds the generational asset protection of the family wealth. When we ask families about whether they believe tax rates will go up or down, or whether divorce rates are increasing or decreasing, or whether their children and grandchildren are more or less financially literate today, their answers usually inspire them to incorporate more asset-protection themes in their plan rather than less.

We often see families and their wealth being exposed to multiple asset-protection risks, which include, but are not limited to, the following:

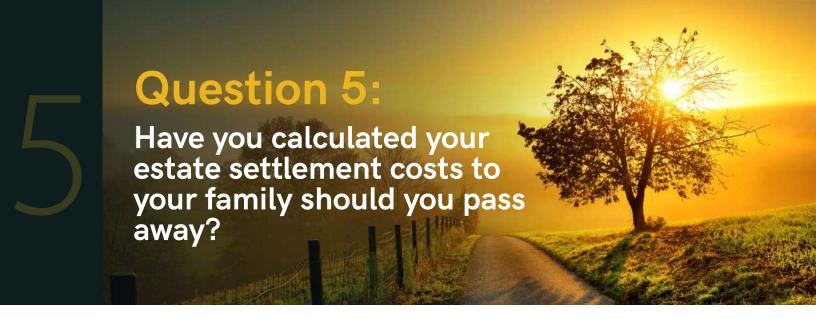
- 1. Increased risk of being targeted in a lawsuit due to the family's deep pockets.
- 2. A lack of sufficient insurance coverage that exposes family assets to claims of creditors.
- 3. Assets exposed to the risk of marital separation.
- 4. Family wealth being used to perpetuate substance abuse.
- 5. Lack of financial literacy skills in future generations.
- 6. Lack of positive values system in future generations.
- 7. Risk of family wealth being exposed due to premature death and subsequent remarriage.
- 8. Incorrect lifetime trust planning.
- 9. Blended families and estate equalization concerns, including cash flow challenges between family members.
- 10. Asset-protection issues associated with special-needs family members and their ability to qualify for governmental assistance.

# WHAT ARE THE IMPLICATIONS?

There are numerous implications to families that do not adequately address asset protection in their planning. Not only are families at risk of losing financial capital due to these exposures, but depending on the circumstances, an erosion of family harmony can occur as well if the asset protection concern is related to estate equalization, substance abuse or marital separation issues. Burdensome litigation resulting from poor asset-protection planning is another.

#### 3 RECOMMENDATIONS FOR YOU

- 1. Families that are concerned about these implications and how asset protection is incorporated in their planning have options. They should first take steps to review their existing legal documents, particularly on the estate planning side, and discuss their options with their advisor team. Estate planning vehicles such as asset protection or dynasty trusts are useful tools to address many asset-protection concerns that families face. These reviews should occur annually to consider changing family circumstances, and any changes should be communicated to all family members at the annual family meeting.
- 2. High net-worth individuals who wish to marry, particularly those with children from a prior marriage, should consider prenuptial or other marital agreements to clearly outline how property would be divided in the event of a subsequent separation or death. With blended families, estate equalization is a key issue, and families should routinely perform cash flow projections to ensure assets are transferring in an equitable fashion.
- 3. Finally, families should work with their risk management specialists to annually review their current insurance coverages to make sure that they have sufficient coverage to protect them should an unexpected loss occur.



The loss of a loved one is a traumatic experience for families to cope with. Unfortunately, we too often witness families compounding these already tragic experiences with unnecessary and burdensome estate settlement costs that the family hadn't been aware of. In many cases, these expenses result in substantial wealth lost to the family. Making matters worse, many of these same families are forced to liquidate assets that they might have otherwise wished to keep in the family in order to pay these costs. It is vital for high-net-worth families to have an answer to this question and understand its impact to the family.

# WHAT ARE THE IMPLICATIONS?

There are numerous costs that families may face when the loss of a loved one occurs. These include but aren't limited to the following:

- 1. Probate costs.
- 2. Funeral expenses
- 3. Federal and state inheritance /estate taxes.
- 4. Outstanding debts payable in full at the decedent's death.
- 5. Liquidity "cost" due to the illiquid nature of the family's asset base to pay for these expenses.

Probate costs vary from state to state and depend on a variety of factors. In some states, these costs are calculated as a percentage of the probate estate. Depending on the family's net worth, this can be significant. Federal and state estate and inheritance taxes are also a burden that high-net-worth families face. In fact, future generations of the family bear the responsibility to pay these taxes and may even be forced to liquidate assets in order to pay for them, depending on the family.

Unfortunately, many families don't realize is that these expenses are often voluntary and can be avoided by proactively planning to minimize them. There are numerous estate planning tools that families can utilize to significantly reduce or even eliminate these settlement costs, but they must go through the five levels of estate planning first. We find that families with high exposure to estate settlement costs only go through one or two of these levels and incorrectly believe that they have completed the estate planning process.

#### 5 LEVELS OF ESTATE PLANNING

- 1. Basic testamentary planning including wills.
- 2. Living revocable trust planning.
- 3. Irrevocable life insurance trust planning.
- 4. Discounted gifting strategies with advanced irrevocable trusts.
- 5. Philanthropic planning.

If you stopped doing estate planning because you have a will and maybe a revocable trust, you've likely only finished two levels of estate planning. When going through this process, families should think about not only the tax savings themselves, but what those tax savings could grow to for the benefit of future generations of the family.

Families that aren't able to answer this question should first begin by working with their advisor team on determining what exposure they may have, both now and in the future, and monitor this regularly. They should review their existing plan and determine what levels of estate planning they have completed. Unless the family has explored all five, they may be facing estate settlement costs that could be mitigated. Families that desire to reduce these costs can deliver significant value not only to future generations of their family, but to the community at large.



When was the last time you reviewed the key legal documents that form the foundation of your generational wealth plan? For high-net-worth families, and particularly business owners, these documents have a tremendous impact on their families.

# WHAT ARE THE IMPLICATIONS?

While working with families, we see quite a few trends when reviewing their existing legal documents. On the personal side, we too often see outdated estate planning documents that aren't maximized for recent law changes or don't conform to the family's current circumstances. Additional children, marital separation or new marriages, and an increase in net worth are just a few of the circumstances that may require a revision to a family's estate planning documents. And as we just discussed above, many of these documents are not maximized to reduce estate settlement costs to the family. Many of these documents also lack generational asset protection themes that become more important to families as they mature and grow. We also tend to see estate planning documents drafted at different times, by different attorneys with different and sometimes conflicting provisions. And when multiple generations of a family each have their own separate plans and advisors, these issues are compounded further. The result of this complexity is that the family's estate plan often isn't generationally coordinated and pitfalls can develop over time.

For business-specific documents we see similar trends. Business buy/sell and operating agreements are often outdated, aren't tax efficient, and don't take into account all the scenarios in which they could be triggered.

These issues aren't the fault of the family. Families aren't trained to connect the dots on these issues and some have even told us they didn't fully understand what they were signing but trusted their advisors. While the documents on their face are normally perfectly fine, unless they are viewed within the context of the family's entire planning picture, unintended gaps can arise. This is why the above question about advisor collaboration is so important for families to answer.

The implications of not answering these questions are so important for generational wealth propagation. Creditor exposure, a loss of family wealth due to unnecessary tax exposure, or poor financial literacy in future generations are just a few of the unintended results that families might experience if they don't consider this question. Many families are not aware of additional options that they can consider and they don't have a process in place to routinely review these documents and make any proactive revisions that are needed.

## **CREATE A PROCESS**

High-net-worth families must have a process in which they routinely review their important legal documents. They should take stock of changing family or business circumstances and consider whether revisions are needed. Families should be proactive and discuss with their advisors how ever-evolving tax laws could affect their existing plans and whether documents should be changed accordingly. It's also important for families to have a second set of eyes to review documents prior to their execution so that the documents can be examined within the context of the family's existing legal structure and plan.



High-net-worth families and privately held business owners are often fortunate enough to have a plethora of highly skilled professionals at their disposal to assist them with their various needs. Bankers, accountants, lawyers, investment managers, business CFO's, and risk management experts are just a few. Many families even have multiples of these advisors in their lives. And this doesn't even take into account the advisors upline or downline generations may have! But like any expert business owner would say, unless these team members are working together, miscommunication or errors can result.

While this may seem like common sense in the business context, is this same mindset in place for your family? Are your key team members collaborating on your behalf?

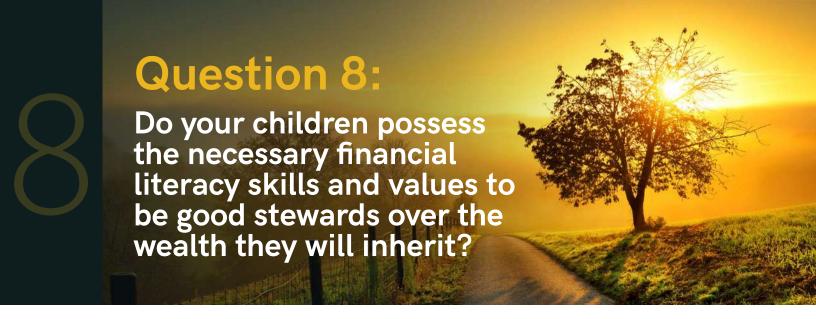
# WHAT ARE THE IMPLICATIONS?

We witness advisors, who are no doubt expertly trained, giving advice from their individual silos and interacting very little with other team members on behalf of the family. As we will discuss below, this sometimes results in the family receiving fragmented, duplicative, or even conflicting advice. When this occurs, the family may miss opportunities or is exposed to a variety of extraneous costs. Plus, the family itself is often stuck in the middle and left to determine what course of action is best. But without adequate training, the families might choose a course of action that is not optimal or maximized. Families, therefore, have a leadership gap and need a gatekeeper who proactively brings the team of advisors to the same table and understands the full picture of the family's plan.

In addition to giving advice with limited collaboration, advisory teams often give families advice that doesn't take into account all of the pertinent data because that data is scattered and hasn't been shared with the entire team. Even if person-to-person collaboration isn't possible, it is helpful for advisors to have access to all of the relevant data needed to maximize their advice to the family. With cloud-based file sharing services being commonplace, families should consolidate their important financial data in one spot and allow access to their key advisor team.

#### THE POWER OF A TEAM

No matter how skilled one advisor may be, acting alone and one-on-one with the family is not nearly as powerful as having the full team of the family's advisors collaborating on its behalf. Each of these advisors has their own particular expertise to bring to the table, but that expertise may limit them in looking at a problem from a different perspective. As James Surowiecki, author of *The Wisdom of Crowds* details, groups of people tend to come to the correct conclusion more often than one individual acting alone. Families should operate with a similar mindset as it relates to its generational planning.



In working with high-net-worth families, there are two constants that we see. First, they love their children and grandchildren immensely. And second, they are highly concerned with how to prevent the family's wealth from negatively impacting them.

With these two concerns in the forefront of many family's minds, it's unfortunate that so few of them take proper steps to prepare their descendants for the wealth that they will eventually inherit. When we ask families why these steps haven't been taken, many respond that they are unsure how to begin the process, or that there is a deeply embedded culture of privacy where family wealth isn't discussed. There may also be fears that discussing an inheritance will encourage children to slack off and not apply themselves. As James Grubman, Ph.D analogizes, many families of wealth are akin to immigrants in a new land, trying to both adapt to a new culture of wealth and all of the opportunities and challenges that come with it, while also trying to maintain the values and traditions that went into creating it.\(^1\) Answering this question in the affirmative is a crucial step towards families attaining long term generational wealth preservation.

Believe it or not, wealth creators aren't the only family members who are uncomfortable with this process. Inheritors themselves are usually equally concerned. Many of them are unsure of what assets the family possesses and how they will be transferred to the next generation. The succession of family assets is a huge responsibility for wealth inheritors to manage, and they often feel ill-equipped if they were suddenly thrust into it. Many of these same inheritors also admit to lacking a basic understanding of financial management skills and are highly concerned about their ability to effectively manage the wealth. Most want to learn these skills, but they are not typically taught in most school curriculums. Therefore, it's the family itself that is responsible for taking the lead. If financial literacy skills are not transferred effectively, then long-term wealth preservation is much more difficult to attain.

<sup>1</sup> Grubman, Ph.D., James. (2013) Strangers in Paradise: How Wealthy Families Adapt to Wealth Across Generations. Publisher: Author.

Families that successfully transfer wealth generationally must not only transfer the skills to manage the financial capital of the family, but also the values that went into creating the financial capital in the first place. These values are best transferred by maximizing the intellectual, human, and social capital of future generations. Developing and cultivating passions in future generations very often leads to a strong work ethic that helps perpetuate, and not erode, the family wealth as it passes down the family line.

# WHAT ARE THE IMPLICATIONS?

If wealth creators aren't confident that their children will be knowledgeable and responsible stewards of the family wealth, it's important that they understand the potential implications.

According to an Institute for Preparing Heirs' study of 1000 families, seven out of every ten families involuntarily lost their wealth as it passed to the next generation. Families' lack of intergenerational communication or failure to adequately prepare heirs for the responsibilities of managing the family wealth contributed to 80% of this involuntary wealth loss.<sup>2</sup> If these statistics are startling to you, there is no better time than now to begin working on this process with your family.

#### START COMMUNICATING

Families that wish to begin the process of answering this question should first invest into regular family meetings that foster intergenerational communication about the family's wealth. They should also develop a family mission statement or constitution.

Families should also work with their advisor team to develop financial literacy training for future generations, where necessary. If families are struggling in these areas, they should consider hiring a qualified wealth psychologist or coach to work with all generations of the family and whatever hurdles they may be facing.

<sup>&</sup>lt;sup>2</sup> Williams, Roy. & Preisser, Vic. (2005). Philanthropy Heirs & Values: How Successful Families Are Using Philanthropy to Prepare Their Heirs. Bandon, OR: Robert D. Reed Publishers.



By asking this question, we're not suggesting that you establish a federally licensed banking entity. But rather, we're asking if you have considered how your family wealth can be used as a source of funds for assisting family members with their personal growth?

One concern many families of wealth have is being able to effectively transfer wealth management skills and values to future generations. Segmenting a portion of the family's asset base to be used as an "estate bank" is one strategy families have used to assist in this endeavor.

#### WHAT ARE THE IMPLICATIONS?

One common theme we've heard more recently from the families we work with is that due to ever-changing banking and financial regulations, individuals-especially young adults-are finding it harder and harder to gain access to capital needed to jumpstart their careers or purchase a first home. Overly conservative lending practices, insufficient credit history of the borrower, onerous collateral requirements and personal guarantees, and rising interest rates are all common features of commercial lending that can prevent a borrower from being able to access the capital they need.

On the opposite end of the spectrum, families have also told us that they are challenged with family members improperly using the family wealth, often due to them having unfettered access to it. Whether this is used for a speculative business venture or because family members treat it like a piggy bank, there is often a lack of accountability to these members when the family wealth is unnecessarily squandered.

#### **CREATE YOUR FAMILY BANK**

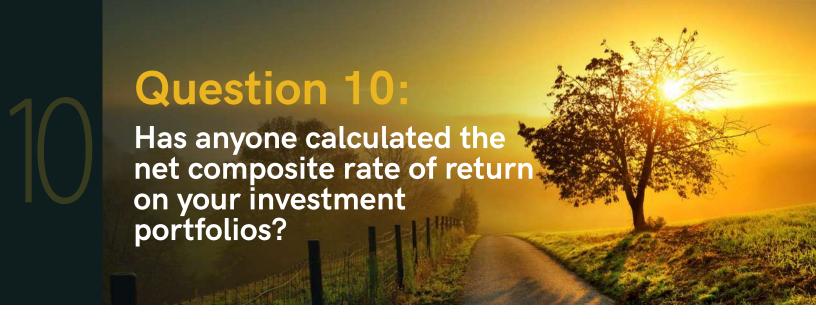
The concept of a family bank can address both of the aforementioned challenges. To start the process of creating a family bank, the family can simply segment a portion of the family asset base to be used by future generations as a source of capital for their personal needs and passions. Perhaps one family member is unable to secure financing from a bank for a business venture. The estate bank could be that source of capital and loan funds for that purpose.

To hold the borrower accountable, the family can also establish lending guidelines which may be less stringent than a bank, but still strict enough to ensure there is a true lender-borrower relationship in place to hold the borrower accountable.

Some of these guidelines include the following:

- 1. Family members must submit a business plan prior to any loans being approved.
- 2. The estate bank charges a market rate of interest to generate investment earnings back to the family.
- 3. The estate bank instead charges a lower-than-market rate of interest to ease financing costs to the family.
- 4. The estate bank secures its loan with collateral similar to a commercial banking transaction.
- 5. The parties develop amortization schedules and enforces them.

Families wishing to incorporate this concept into their planning should also be cognizant of what asset base is used as the source of these funds. When administered effectively, families develop a liquidity pool that's available for this purpose. These funds can also be used to protect the family against unexpected events that require liquidity.



One of our favorite sayings is, "It's not what you make, but what you keep that's important." This couldn't be truer as it relates to your investment portfolios. In the long term, a failure to understand this question can result in families losing real dollars that can affect all aspects of its planning from retirement security, to legacy planning, to philanthropic endeavors.

Net composite rate of return is, in our estimation, the truest calculation of an investment's performance. To calculate it, you must take the rate of return of your investment portfolio and subtract all management fees, taxes associated from account activity, and inflation. Many families we talk to are unaware of how these factors are affecting their investment portfolios and incorrectly believe they are performing better than they are.

Investment management fees are typically an area that generates confusion amongst investors. If you work with an advisor to manage your portfolio, that person can be compensated in a few different ways. A full discussion of this is beyond the scope of this paper, but most commonly, advisors charge a fee that is a percentage of the amount they are managing. Depending on the investments they choose, there may be additional fees on top of this management fee that the underlying sponsor charges. Investors should understand what these fees are and how they affect the net-composite rate of return calculation.

#### TAX IMPLICATIONS

Taxes are also detrimental to the long-term investment performance when the investments are held outside of qualified retirement accounts, such as IRAs or 401(k)s. Frequent trading of holdings in the account can result in short- or long-term capital gains tax exposure, and many investment holdings regularly distribute interest or dividends which are also taxable to the account owner. For many high net worth investors who aren't using these investment accounts to

maintain their lifestyle, these often result in unnecessary income tax exposure to the family and a loss of return over long periods of time. There are numerous ways to combat this exposure by using active tax management, such as loss harvesting, or owning these investments in tax-advantaged structures.

# **A SILENT KILLER**

Finally, inflation can be the silent killer of investment portfolio performance. Although it will affect every investment equally, investors should still be aware of its effect on their long-term planning goals since it will reduce the purchasing power of their investments. This is particularly important for retirement projections or for families that are using dynasty trust or other generational investment plans.

### **GET CLARIFICATION**

Families wishing to better answer this question should begin with working with their investment professionals to clarify their relationship and fee structure. They should also regularly review their asset allocation in light of their family's goals. They should also work with their tax advisors to determine the income tax liability being generated by their investment portfolios. The family's advisory team should revise any cash flow projections to include inflation adjusted numbers, as needed to give the family a truer understanding of their future needs.

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