

Welcome to the Legenis eNewsletter May 2010 edition

In this month's issue we feature a summary of my attendance at the "International Association of Advisers in Philanthropy" conference in Chicago; a look at the tax implications of your death; and how to conduct an "Inheritance Fire Drill".

I have issued a challenge at the end of the first article, so take the opportunity to respond and maybe receive a worthwhile reward.

If you have any questions regarding the information in this month's newsletter please don't hesitate to call or email us.

I hope you enjoy this month's articles.

Warmest regards,
Dr Robb Musgrave
CEO, Legenis

Legenis: Leaving a lasting legacy for families, foundations, corporations and non-profit communities by empowering them to do the right things, by doing things right.

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Article 1



The International Association of Advisers in Philanthropy conference.

By Dr Robb Musgrave

I have just returned from the International Association of Advisers in Philanthropy, conference held in Chicago. It was my third visit after speaking there in 2009. The AIP grows from strength to strength, with a number of charities also choosing to sponsor the program; where advisers who specialise in legacy, succession and philanthropy gather to inform, learn and develop skills from one another. The conference is both entertaining work and fun.

Dan Sullivan, dynamic as “The Strategic Coach” www.strategiccoach.com showed the 10 multipliers for personal performance for entrepreneurs, who, representing only 5% of the population, employ more than 50% of the workforce, worldwide.

Professor at Laws, Randall W. Roth, of the University of Hawaii spoke of experience gained; if not lesson’s learned, of the greed, mismanagement and political manipulation at America’s largest charitable trust through his book, “Broken Trust”. The story relates the Bishop Estate Trust, which was created as a legacy by Princess Pauahi, the last royal descendent of King Kamehameha in 1884.

The trust started from humble beginnings, running a school benefiting Hawaiian children, but ended up incredibly wealthy owning 10% of all land holdings in the State of Hawaii. Roth illustrated when part time trustees pay themselves a \$1million salary each, problems are created and other corruptions are likely. In this book he outlines the intrigues, the corruption and scandals, the dirty dealing and the suicides that made it regarded as the biggest news story in Hawaii, since Pearl Harbour in 1945.

“Creative Charitable Planning with Non-Cash Assets”; “Transformational Philanthropy: Entrepreneurs with Not for Profits”; and “How Best to Give”; were other sessions. The highlight of the congress was the continuing development of Charities making use of Private Briefings as a way of connecting donors to charities using the power of a 3rd party influence. Over 4000 such Private Briefings or Donor Motivation sessions have been used across America with outstanding results even through the difficulties of the GFC. Charities reported building much stronger personal relationships with large gift donors, through using advisers in a way to position the charity as a major gift beneficiary. The advisers reported that the introduction by the charity through a private briefing, gives the adviser additional credibility and the knowledge that the potential clients in the Private Briefings are the most suitable donors for that particular charity. These ongoing relationships have been building for over 5 years with a win- win – win philosophy.

I have a copy of “Broken Trust” to the reader who responds with the best critique of the Legenis Newsletter. Email your comments to admin@legenis.com

Dr Robb Musgrave MBA, PhD is the CEO of Legenis. Legenis is committed to assisting individuals create living legacies. Dr Robb can be contacted on +61 7 3395 1213 or email: robb@legenis.com.

Article 2

“Just as your car runs more smoothly and requires less energy to go faster and farther when the wheels are in perfect alignment, you perform better when your thoughts, feelings, emotions, goals, and values are in balance.”

~ Brian Tracy

Pick a Great Time to Die

BUSINESS WEEK - Dan L. Duncan, the Texas pipeline billionaire who gave hundreds of millions of dollars to hospitals, museums and wildlife associations, died March 28 at his home in Houston. He was 77. Houston-based Enterprise said the cause of Duncan's death was unknown and unexpected. From 2004 to 2008 Duncan donated \$259 million to cancer research and at the time of his death his estimated fortune was \$9 billion dollars. While we are saddened to hear of the death of Dan Duncan.

His passing allows Legenis the opportunity to show the differences in estate and death duties applying in the USA as well as Australia where CGT is the major taxation impost applicable.

Because Dan did die in this Tax Year 2010 for Estate Tax purposes he has a lifetime exemption of nil as this was repealed for this year and the estate tax levee is NIL, the levee was repealed for 2010 only.
So the Estate Tax applicable on \$9 billion in 2010 will be \$00.00!

If Dan had died in the US Tax Year 2009, the Exclusion amount would be the first \$3.5 million and the top Tax Rate would be 45%.
So the Estate Tax Applicable on \$9 billion in 2009 \$ 4,048,000,000!

If Dan had died in the US Tax Year 2011, the exclusion amount will be \$1million and the top Tax Rate will be 55%.
So the Estate Tax Applicable on 9 Billion in 2011 will be \$4,949,450,000!

If Dan died in Australia and almost all his wealth we know was from post 1985 investments, his Capital Gains Taxation for 2010 would be at a 21.4% average from the last ATO report.
So the Aussie CGT applicable on 9 Billion in 2010 could be \$1,926,000,000!

For a CGT event to occur there would need to be a disposal of an Asset, a sale or a transfer of ownership such as may occur on death. In Australia many Assets

are owned in unsuitable structures, but someone worth \$9 billion would be unlikely to have the total assets in their own name.

Now you may not be as fortunate financially as Dan Duncan, but then you are still alive, some compensation you would suppose. What this does show is that Australia is not exempt from taxation imposts occurring on or around death. In each case the Taxation requirements are the same. Whether the ATO or the Dept of Revenue, they only take cash and it must be paid within a prescribed period. This often means the sale of Assets quickly.

Whenever selling Assets certain rules apply. When selling quickly, those assets with high liquidity bring the quickest prices and those with high quality bring the best return at sale. So after the payment of taxes, the estate could be left with the poorer quality assets in difficult locations or largely illiquid assets.

(Note: these figures are for general information only and rely on only basic tax applications and no form of advice was considered in relation to structure and specific tax reduction strategies in any jurisdiction. No consideration is made for currency valuation differences. In the USA, some additional State Death Duties could apply)

Article 3



Conducting an Inheritance Fire Drill

By Jay Link, Kardia - Family Wealth Counsellors

Wealth is like a blazing fire; it can cook and warm or it can burn and destroy. And which it does to your heirs depends, to a great extent, on how you hand it to them. This very real danger is commonly recognized by families with wealth which is why so much of heirs' inheritances are locked up in trusts doling out the funds in ways and at times that hopefully will do more good than harm – but who really knows. As one inheritor told me, “Trusts are really vehicles of distrust.” A rather profound observation, I think.

With this imagery of wealth being a blazing fire, it would be time well spent for parents, as they contemplate the amount and the timing of their heirs' inheritance, to conduct an “inheritance fire drill” to determine how prepared their heirs are to receive an inheritance and how well thought out the timing and the amount of their planned inheritance really is.

Let's begin the “inheritance fire drill”. There are three steps to this exercise.

Step #1

Discern Your View of an Inheritance

This first step is critically important to the fire drill, but is almost never addressed by parents or the traditional estate planning approach. Let me pose this profoundly important question to you. Is an inheritance an *inherent right* or an *unearned privilege*?

Because your children are your children and you are affluent do they have an inherent right to an inheritance by the simple fact that they happened to have “popped out of the right womb?” Or, if they receive anything they did not work for is it an unearned privilege – an unexpected “bonus?” Can you see why this question is so fundamentally important?

Let me ask it in another way. Is an inheritance a *required obligation* we owe our heirs or is it an *optional gift* we can feel free to bestow on them if and when we choose to?

Many parents feel that their children have a right to an inheritance and they feel obligated to pay them what they owe. I think this is the reason a certain bumper sticker has hit such a responsive chord in all of us. Have you seen it? It says, “I am spending my children’s inheritance.” Interesting idea, isn’t it? The implication is that the children already own their inheritance and mom and dad are spending the kid’s money on their lifestyle. What bizarre thinking. However, this is the kind of thinking that is all too common among affluent parents.

Don’t move on to step #2 until you have become clear on your *view* of an inheritance.

Step #2

Determine the Purpose of an Inheritance

If you believe that you have a required obligation to give your heirs an inheritance, the purpose for their inheritance may simply be to pay them the bill you owe them. But if you rather believe that an inheritance is an unearned privilege, a gift that is optional, you are free to decide on any amount and any purpose for an inheritance that you deem to be wise and helpful to them.

Here is the question for step #2. Do you want your children’s inheritance to fund *lifestyle* or *opportunity*? This is a critically important question because the difference between wanting to provide them with the assets and income needed to maintain some desired lifestyle and providing them with the funding to give them greater opportunities in life is massive. Do you want to *assist* them along their way or do you want to *carry* them along their way?

The reason this question is so critical is because it addresses two vital issues, the *amount* and the *timing* of an inheritance. If you want to help them get a good start in life, by helping them with college, getting their first house, getting a business started, maybe helping send their kids to a private school, etc.,

These needs come earlier in life, not when parents finally eternally relocate at 85 and the children are 60. What is an inheritance going to do for them at that point in their life, supplement their retirement income?

So, if parents are looking to fund opportunity, the idea of lifetime inheritance planning becomes essential and the children's inheritance will be given in planned amounts for specific reasons to help them along the way as the needs and opportunities arise while the parents are still here to observe, monitor and coach their heirs. If parents are looking to fund lifestyle, you can be sure that their heirs will grow financially dependent on them and their wealth for the rest of their lives and beyond.

Let me ask you a question. Would your life be the same as it is today if you would have received a substantial inheritance at some point earlier in your life? Would your life now be better or worse because of it? Interesting questions, aren't they? I think it is safe to say that all of us would agree that our lives would not be the same as they are now. What we cannot say is whether they would be better or worse.

Let me now ask you, what will happen to your children's lives when they receive what your current inheritance plan will provide to them? Will their lives be better or worse? Here is the fundamental question, "Specifically, what do you want your children's inheritance to do for them?"

Don't go on to step #3 in this fire drill until you determine the *purpose* of an inheritance.

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Step #3

Calculate the Timing and the Amount of an Inheritance

Now that you are clear on your view and the purpose of an inheritance, you are now ready to calculate how much of an inheritance would be appropriate for heirs and when it would be best for them to get it.

After 30 years of working with affluent families here is my list of the ten most common purposes for why inheritances are given. You will likely want to do this exercise for each child since the needs, abilities and maturity of each heir will likely be different. As we all know, all children are not created equal. What may be good for one may actually be bad for another.

Using today's dollars, put in the amount you believe would be needed to provide the various inheritances listed below and when you would want them to get it. Do not feel compelled to put something in each area unless you want them to get everything listed below.

Opportunity Inheritance

1. Receive the family business:

\$ _____ When? _____

2. Funds available for new business start up:

\$ _____ When? _____

3. Receive funds for a first home (down payment or pay off mortgage):

\$ _____ When? _____

4. Receive funds to establish an emergency reserve (personal, medical, etc.):

\$ _____ When? _____

5. Receive funds for tuition for (all or part of) children/grandchildren's education:

\$ _____ When? _____

6. Receive funds for increased charitable giving:

\$ _____ When? _____

Lifestyle Inheritance

7. Receive funds to provide ongoing income for a pre-set desired lifestyle:

\$ _____ When? _____

8. Receive family property, or the funding for other personal property (boats, cars, motor home, plane, etc.):

\$ _____ When? _____

9. Receive the family residence/farm/homestead/vacation home:

\$ _____ When? _____

10. Receive funds to provide ongoing income due to special needs/disabilities of heir (physical or emotional)

\$ _____ When? _____

Add up the amounts. You might be surprised with the total. The amount of need may be substantially different to the amount of your inheritance gift. If this inheritance fire drill produces an outcome that is appreciably different than how your current inheritance plan is set up, I would encourage you to immediately take steps to adjust your inheritance plans to align them with the outcome this fire drill has produced.

There is no part of the wealth transfer process that is more important, more

dangerous and more fraught with complexity than this area of inheritance planning. Do not take it lightly. Do not settle for the default options that are characteristic of the standard traditional estate plans.

Lastly, once you have completed this inheritance fire drill and made the appropriate adjustments to your current inheritance plan, get your family together and tell them what you are going to be doing for them and why. Do it while you are still on “this side of the grass.” Communication does more to ensure a successful inheritance transfer than anything else. As the old saying goes, “a word to the wise is sufficient.”

If you would like further information on how you can conduct and use your Inheritance Fire Drill, please contact Legenis at admin@legenis.com or on +61 7 3395 1213.

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