THE VELD GROUP VELD MERGERS & ACQUISITIONS

Determining How Much Money is Appropriate to Leave to Children

Michael Wildeveld, CEPA, M&AMI, CM&AP, CM&AA, CBI, CBB
michaelw@veldma.com

Veld Mergers & Acquisitions
www.veldma.com
1 Park Plaza, 600
Irvine, CA 92614
310-652-8066

For many successful business owners, the question of how to leave as much money as possible to children begs a more important question. Given the huge (and perhaps unexpected) financial success of the business, the real question is how much money should the children receive and *how much is too much?*

When George Delveccio, a fictional business owner, was asked this question by his advisors, he responded, *"I want to give the kids enough money to do anything, but not enough to do nothing."* George offered a noble sentiment, to be sure, but it is an objective that is difficult to execute—at least without careful planning. In George's case, he preferred that his children receive nothing to the prospect of creating "trust babies."

When owners wrestle with this question, it is good to remember that children may not need to receive money outright. Rarely are large amounts of wealth transferred to children freely or outright. Instead, access to wealth often is restricted through the use of family limited partnerships (or limited liability companies) and the use of trusts. These tools are primarily designed to reflect the parents' desire to restrict their children's (and their spouse's) access to wealth. This is true regardless of the amount of wealth a parent wishes to transfer. Let's look at the steps in a typical "access/control" scenario.

Controlling Access to Wealth

Step One. First, the parents form a limited liability company (LLC) or family limited partnership (FLP) in which the parents own both the operating interest (or general partnership interest) and the limited partnership interests. Limited partners have no ability to compel a distribution, to compel a liquidation of the partnership (or LLC), or to vote. In short, limited partners enjoy few rights and have no control.

Step Two. Children's trusts are created for the benefit of each child. The trusts will eventually own the limited partnership interests. A child will be entitled to receive distributions from the trust based on guidelines, parameters and restrictions that the parents prescribe in each trust document. The variety of

restrictions parents can place upon a child's right to receive money is limited only by imagination and any decision upon the degree of restriction. Keep in mind, however, that someone—known as the Trustee—needs to interpret, administer, invest and make distributions according to the provisions of the trust. Your choice of a trustee is at least as important as the trust design, so you should take careful considerations when selecting a trustee.

Step Three. After determining the restrictions they want in place, the parents transfer the limited partnership interests or non-voting interests into each child's trust. At this point, the parent is making a gift of the value of the limited interest to the child.

Unfortunately, parents with large estates often abandon the planning process at this stage because they believe they can only transfer their combined lifetime gift exemptions to their children without incurring immediate tax consequences. Parents are often able to transfer as much wealth to children as they desire.

Planning Can Benefit Charity As Well

There is one additional planning consideration that is important to point out as well. Under current estate tax law, one spouse can leave assets at his/her death to the other spouse without estate tax consequences. For most estates, taxes are assessed only at the death of the surviving spouse. If, during their lifetimes, parents are able to give their children (and other heirs) as much wealth as they wish the children to receive, it is then possible to design an estate plan that gives the balance of the wealth at the first parent's death to the surviving parent. When the surviving parent dies, his/her loved ones (yes, your children!) will have received all of the wealth the parents wanted them to receive and the balance of the estate can be transferred to charity. Some families establish private foundations or give money to other charitable organizations.

Here's the net result.

- The children receive what the parents want them to receive—during the parents' lifetimes.
- The parents enjoy 100 percent of the wealth remaining as long as either parent survives.
- After both parents die, their wealth transfers to a charity of their choice—such as their own private foundation.

And last, but not least,

- The IRS gets nothing. For many parents and business owners, this is an estate plan design worthy of close scrutiny. For George Delveccio, a man with strong charitable interests, this was the estate plan design that he chose to implement.

After you have determined how much wealth you want your children to have, the next step for designing a successful family wealth transfer strategy is to leverage the appropriate tools to minimize the estate and gift tax consequences associated with transferring wealth. Ask us how you can use GRATs (Grantor Retained Annuity Trust) to pass wealth to your children with reduced tax impact.

If you have any questions about transferring wealth to children, please contact us to discuss your particular situation.