Anticipate Goals and Habits of Millennial Beneficiaries

Does all of the hype surrounding millennials portend changes, great or subtle, for the estate planning community?

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The "millennial generation" is the subject of much public discourse and debate. Scores of articles about that generation surface each month dissecting their habits, preferences, and potential impact on society—now and in the future. Estate planning practitioners need to take note of the attention, analyze and understand the reasons for it, and then adapt their services as appropriate to attend to the needs of this rising generation.

The reasons for all of the attention appear to be varied but, of course, are influenced by the sheer number of millennials. A recent study indicates that the millennial generation is now the most populous of any generation living today, including baby boomers.[1] Another study indicates that they now make-up the largest part of the U.S. workforce.[2] Naturally, in light of these statistics, much of our societal attention will increasingly focus on this generation in an effort to meet its needs and demands. Evidence of this can be found in the Millennial 20/20 summits and similar forums that have developed to give a voice to, focus on, and study the expectations of the millennial generation and how best to meet them.[3]

Given this situation, the estate planning community too should focus its attention on the millennial generation. Millennials are set to become the beneficiaries and fiduciaries associated with many of the estate plans being prepared today. They are also the rising generation of clients for estate planning services, and in light of their numbers will be the principal client base for these services in the coming decades.

On top of those reasons, recent reports have indicated that their baby boomer parents will transfer more wealth to them than has been transferred at any generational shift in history. Some $30 trillion is expected to pass to the next generation by their baby boomer parents in North America over the next 30 to 40 years.[4] The magnitude of these numbers underscores the general importance to plan properly for that transfer.

As a result, the estate planner should keenly focus on the predilections, habits, and expectations of millennials in order to promote an orderly and efficient generational transfer process. Does that mean the practice of estate planning is in for major upheaval in the coming decades in order to meet the demands of the millennial generation? Perhaps, although future change may be driven more by evolving technology and modes of communication, many of which have been created and popularized by millennials, and less by changing demand for core services. After all, estate planning is a service that everyone needs to differing degrees

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in the U.S. Barring the implementation of forced heirship statutes in the U.S., this is not likely to change much from one generation to the next.

Who is a millennial?

There is some disagreement over who is a "millennial." The generations that are widely discussed are not so easily defined according to sociologists and other authorities.[5] Some are delineated by the circumstances at the time of their births or during their lives, for instance baby boomers and "the greatest generation." Substantial generalities are used in drawing the generational borders, which leaves room for debate. There does seem to be rough consensus that the millennial generation began with those born in the early 1980s and ended with those born around the year 2000. Millennials are broadly defined by the technology they have grown up with and their innovation and use of social media.

Many millennials are the children of baby boomers born in the mid-to-late period of that large generation. Baby boomers have often been referred to as the "me" generation.[6] They have been ascribed as trending toward narcissism, absorbed with self-improvement and self-fulfillment. They are also known for being "helicopter," overprotective parents to their children. Perhaps not coincidentally, millennials have been described as the "me, me, me generation," with some suggesting that they have adopted and doubled-down on the traits ascribed to their baby boomer parents.[7]

These two large generations, however, have notable differences that may be important for estate planners to keep in mind. The modes of communication vary greatly between these two generations. Baby boomers are known for in-person social collaboration (e.g., sit-ins, protests, book clubs, and investment clubs). Millennials are credited with being less concerned about interacting with others in person or over the phone, and instead often prefer some manner of digital interface for their socialization. They are the pioneers of social media.

Other important differences are seen in their living styles, income, and consumer choices. Millennials are the first generation in the modern era in which more of them live at home with parents than live in any other type of living arrangement, according to a Pew Research Center study.[8] Millennials also may be the first generation to have and earn less than their parents according to a study done in the U.K.[9]

Millennials are also thought to be less trusting of society and its institutions, perhaps in large part due to the turbulent times they were raised in. The dot-com bust, September 11th, the real estate collapse, and the great recession all occurred during their formative years and may have contributed to their "trust issues." This lack of trust in others and institutions has made them more reliant on technology for their informational, mentoring and development needs. They are more technology-based and self-reliant than any generation before them. They are described as being more prone to researching the endless sources of information readily available to them through those digital interfaces and forming their own conclusions than they are with seeking advice and direction from professional advisors and institutions.[10]

Client rapport

Of course, these are all just generalities, some of which can be and have been readily expressed between any one generation and the next. For the estate planning practitioner, perhaps all one needs to be mindful of is that there is a certain distrust by the younger generation of the ways of their predecessors and vice versa. The differences in the pre-

1 Fry, "Millennials Overtake Baby Boomers as America's Largest Generation," Pew Research Center, 4/25/2016, available at www.pewresearch.org/fact-tank/2016/04/25/millennials-overtake-baby-boomers/ (last visited on 11/7/2016).

2 Fry, "Millennials Surpass Gen Xers as the Largest Generation in U.S. Labor Force," Pew Research Center, 5/11/2015, available at www.pewresearch.org/fact-tank/2015/05/11/millennials-surpass-gen-xers-as-the-largest-generation-in-u-s-labor-force/ (last visited on 11/7/2016).

3 www.millennial20-20.com/index/ (last visited on 11/7/2016).

4 Accenture, "The 'Greater' Wealth Transfer: Capitalizing on the Intergenerational Shift in Wealth (2015), available at www.accenture.com/us-en/~/media/Accenture/Conversion-Assets/DotCom/Documents/Global/PDF/Industries_5/Accenture-CM-AWAMS-Wealth-Transfer-Final-June2012-Web-Version.pdf (last visited on 11/7/2016).

5 Bump, "Here Is When Each Generation Begins and Ends, According to Facts," Atlantic, 3/25/2014, available at www.theatlantic.com/national/archive/2014/03/here-is-when-each-generation-begins-and-ends-according-to-facts/359589/ (last visited on 11/7/2016).

6 "Me generation," Wikipedia, https://en.wikipedia.org/wiki/Me_generation (last visited on 11/7/2016).

7 Stein, "Millennials: The Me Me Me Generation," Time Magazine, 5/9/2013, available at http://time.com/247/millennials-the-me-me-me-generation/ (last visited on 11/7/2016); Perman, "Are Millennials Really the 'Me' Generation," CNBC.com, 8/24/2013, available at http://www.usatoday.com/story/money/business/2013/08/24/millenials-time-magazine-generation-y/2678441/ (last visited on 11/7/2016).

8 Fry, "For First Time in Modern Era, Living With Parents Edges Out Other Living Arrangements for 18- to 34-Year-Olds" Pew Research Center, 5/24/2016, available at www.pewsocialtrends.org/2016/05/24/for-first-time-in-modern-era-living-with-parents-edges-out-other-living-arrangements-for-18-to-34-year-olds/ (last visited on 11/7/2016).

9 Petroff, "Millennials: First Generation to Earn Less Than Their Parents," CNN Money, 7/18/2016, available at http://money.cnn.com/2016/07/18/pf/earnings-millennials-young-old-uk/ (last visited on 11/7/2016).

10 Accenture, *supra* note 4. See also Soldana and Benenati, "Millennials and the Family Office," Tr. & Est. 29 (August 2016).

11 See Abbott, "8 Millennials' Traits You Should Know About Before You Hire Them," LinkedIn.com, 12/4/2013, available at https://business.linkedin.com/talent-solutions/blog/2013/12/8-millennials-traits-you-should-know-about-before-you-hire-them#! (last visited on 11/7/2016).

ferred modes of communication and economic outlook between millennials and their parents are issues for estate and trust practitioners to be mindful of when preparing estate plans involving millennial beneficiaries and fiduciaries. Those differences coupled with the lack of trust in societal institutions, of which the legal and financial professions may be included, are potential risk factors to the fulfillment of the planning objectives.

The ability to bridge those gaps will be an important skill to develop in the coming years. Rethinking how information is conveyed and changing communication format options may be prudent steps to take in the coming years to increase the level of understanding of the goals, objectives, benefits and options contained in estate plans affecting millennials. Perhaps the only real change that needs to be made is to fully appreciate the technological options available today for disseminating information and communicating generally, the differing level of reliance on those options among the generations, and making full use of all modes of communication. But that may not be as easy as it sounds.

Whether to convey the details of their estate plan to their beneficiaries and fiduciaries in the next generation is a much deliberated topic among clients. Many parents believe that no one needs to know anything about their estate plans until they are gone. Many of those same parents also assume that their beneficiaries will appreciate and understand their planning intentions and follow them to the "T" because "I said so." Other parents take the position that the beneficiaries of their plan should not only be read into the plan, but also consulted about its details. A third approach to this issue is presented by parents who want to share certain details of their plans, but not others. They may, for instance, want to directly convey that their assets will be divided equally among their children, but not disclose which adult child they have chosen to serve in fiduciary roles.

If the generalities being advanced in the numerous articles and studies about the generations hold true on average, practitioners may increasingly have to manage the expectations of millennial beneficiaries craving access to information, transparence, and assurance of their importance to the plan.[11] The millennials may want to have and exercise more of a voice in their parents' planning. Their baby boomer parents, on the other hand, may live up to their reputed protective and controlling tendencies in regards to their children. They may not want to share all of their planning decisions, much less be willing to give their children that desired voice in the process. They may also plan on using controls for the wealth they leave to their children. The use of lifetime trusts for children, as opposed to trusts that end when children reach certain ages or milestones, are becoming increasingly popular with baby boomer clients. The ability to navigate these issues and challenges will be important to develop in the near future.

Great asset transfers

The stakes of the issues to be communicated (or not) will be high from a generational perspective. As mentioned above, over the next 30 to 40 years approximately $30 trillion is expected to pass from baby boomers to their children in North America. That is a large number in the aggregate and perhaps the largest generational transfer in history. This is not all that surprising given that baby boomers are numerous and have, generally speaking, been successful as a generation.

Of course, the issues and challenges surrounding the transfer of those assets will vary based on the parents' circumstances. Some are business owners. Some are real estate investors. Some own farms. Some are successful stock pickers. Many baby boomers, though, perceive themselves as being not too different from their own parents. They own a house, have bank accounts, a car or two, etc. There are a couple of notable distinctions, however, that baby boomers may not focus on enough.

First, baby boomers have many more digital assets than their parents did. They do not have as many as their millennial children, but they have made liberal use of online accounts. Despite their desire to retain control and refusal to admit they can age and die, baby boomers need to be encouraged to develop lists of these assets and the usernames, passwords, and other security information associated with these accounts. They also need to establish a method for getting that list to their fiduciaries upon their death or incapacity. Finally, they need to be counseled to grant their fiduciaries access and control rights to these accounts in their estate planning documents. Millennials are, of course, very familiar with these accounts and how to access and use them. But all of their expertise in this area will not matter if they do not have the needed security information and proper authorization to access and deal with the accounts.

Second, baby boomers are the first generation to make great use of pre-tax retirement savings accounts, which have unique characteristics and requirements that were not present in the asset classes of prior generations. Accordingly, the beneficiaries of their estates will have to confront challenges that previous generations of beneficiaries did not have to address. The large pre-tax retirement accounts that many boomers have generated have become a very significant, and rising, portion of their total net worth.[12]

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Accordingly, these assets will need to be well understood by millennials as they begin to inherit them. Although most baby boomers are familiar with saving for retirement through these accounts, fewer of them have encountered the options and process on the distribution end of these accounts because their own parents did not have them. Hence, the need and opportunity to plan for and communicate with their children about the unique issues and options associated with these accounts may not resonate with baby boomer parents.

Many see their high six figure or seven figure pre-tax retirement accounts as providing much of the liquidity needed for their estates, whether the needs they perceive are to pay administration costs and estate taxes, or to provide liquid distributions to their family members. Some of these baby boomer clients simply lose sight of the income tax obligations that will be owed on distributions from these accounts for the benefit of their estates or heirs. Others are under the impression that these pre-tax accounts will receive a "step-up" in basis like other assets upon their deaths, and thus reduce or eliminate the income tax impact on these accounts. These issues, of course, are not new to estate planning practitioners. However, many of the baby boomers who do not think of themselves as ever getting old, much less dying, may put off seeking the advice of estate planners until it is too late.

Surveys reveal that more than 50% of baby boomers do not even have a will.[13] If they do not have a will, there is a good chance that they have not fully explored the issues and options related to transferring their retirement assets.

The millennial beneficiaries of these accounts may have even less familiarity with the unique distribution characteristics of them than their parents. If the issues and options associated with these pre-tax retirement accounts are not effectively communicated to them, many will make costly mistakes in claiming the assets. If the general assumptions about how millennials acquire information (online instead of from trusted advisors) hold true, many of them may make claim form decisions without having full appreciation of the details. Although the information sources available on the internet about these topics are immense, many young claimants do not know they need to look for it. If they do look for it, some of it is accurate and some is not.

Most of the information they will find involves nomenclature that is not always readily understood by the average person. Even when the terms are understood, the issues, options, and differences between the options are often still confusing and muddled concepts to many people (young and older). If their parents have not adequately planned for the distribution of their retirement assets and conveyed that plan to their children, significant problems may occur.

As a result of their lack of familiarity with the issues involved with claims on these accounts, when combined with all of the other issues commonly encountered on the death of parents and the substantial amount of wealth that will pass to them from their parents, most millennials will find themselves in need of significant information and advice on the best path to positive outcomes of their parents' estate and trust administration proceedings. Unfortunately, much of the current network for the delivery of information and advice on these topics is not geared toward their preferred mode of receiving it. This is creating a significant gap between the information and strategy help they need and the information they actually obtain.

Conclusion

How can an estate planning practitioner effectively bridge this gap? The answer to this question will likely be a collective work in progress for years to come. However, new means of communicating digestible amounts of important information will need to be developed. Relying on the tried and true "in-person" method of identifying issues, discussing them and developing a plan to address them will be less effective with millennial beneficiaries than it has been with their predecessors.

12 Thornton, "Total Retirement Assets Near $25 Trillion Mark," Benefits PRO Magazine, 6/30/2015, available at www.benefitspro.com/2015/06/30/total-retirement-assets-near-25-trillion-mark (last visited on 11/7/2016).

13 RocketLawyer, "Digital Limbo: Rocket Lawyer Uncovers How Americans Are (or Aren't) Protecting Their Digital Legacies," 4/21/2015, available at www.marketwired.com/press-release/digital-limbo-rocket-lawyer-uncovers-how-americans-are-arent-protecting-their-digital-2011658.htm (last visited on 11/7/2016); Eisenberg, "Americans' Ostrich Approach to Estate Planning," NextAvenue, 4/8/2014, available at www.nextavenue.org/americans-ostrich-approach-estate-planning/ (last visited on 11/7/2016).

Practitioners may need to provide more detailed information about relevant topics on their websites, develop podcasts conveying information and building trust, and establish secure portals for sharing and "discussing" sensitive and complicated topics with millennial beneficiaries and fiduciaries.

Practitioners will probably also need to intensify their efforts to encourage baby boomer clients to communicate sufficient and accurate information about their estate planning to their millennial children to allow their children to appreciate and spot the important issues about which they will need particularized professional advice to maximize the benefits they receive. The parents will need help to fully appreciate the consequences of withholding that information for privacy, control, or other reasons.

It is undeniable that tremendous mental energy is spent on trying to understand and meet the expectations of the millennial generation. They have different interests and expectations than did their predecessors, but still need estate and trust information and services. To remain relevant and helpful, estate planning practitioners will need to develop a keen understanding of those differences and change their modes of communication with both their baby boomer clients and their millennial beneficiary/fiduciary future clients to address those differences and bridge the gap between them. There is no time like the present to begin that process. ■