

Questions to Ask in an Estate Planning Interview

The initial client interview is critical in estate planning, both to shield against malpractice concerns and to ensure a mutually beneficial relationship. Among the most important skills of an estate or financial planner is the ability to know the client, to understand who the client is, where that client stands in relation to the objectives (stated or unstated, realized or subconscious) they may have, and what things have to be done to move the client closer to the realization of these goals.

Knowledge of (i) the client, (ii) the client's fears, hopes, and dreams, (iii) the objects of the client's bounty and their attendant fears, hopes and dreams (often not the same as the client's), (iv) the client's property, and (v) the relation of each to the others is essential to the estate or financial planner. Even the most opposed skeptics cannot deny that there are some parallels between what estate planners do in the initial client interview and follow-up counseling and what those in the other helping professions do. Many clients and patients have difficulty coming to grips with the issues involved in each scenario. Like mental and physical assessments, estate planning assessments and recommendations must be based upon accurate and complete information.

The processes of engagement, data gathering, understanding, and assessment are actually parallel processes. That we as estate planners have to do all of this at once, most of us without the benefit of formal training or education in these matters, may give us (and many of our clients) great anxiety. In fact, all aspects of estate planning are impacted by human processes. Therefore, why isn't there more focus on, study of, or formal education about, estate planning as a human process? In our opinion, it is due to a lack of focused and continuous research, efforts hampered and circumvented by our ethical responsibilities in the area of confidentiality.

Why Is The Initial Interview So Critical In Estate Planning?

There is wide agreement among estate planners that obtaining accurate, complete information is critical to fashioning a proper estate plan and keeping the estate planner shielded from malpractice. Is there really more to the initial estate planning client interview than having some basic social skills and a good fact-finder? Can estate planning interview skills be identified, taught and learned? The good news indeed is that, like technical estate planning knowledge, nearly every estate planner can learn and continuously improve their interviewing skills. If psychologists, psychiatrists and social workers can organize, study, teach and learn interviewing skills tailored to their respective helping professions, then estate planners can as well. Estate planners must focus on the interview aspects of the estate planning process as well as the estate planning process itself. To do this, estate planners must examine the client interview from standpoints of the interviewer and interviewee. Here are some open-ended questions that you may want to use when interviewing clients. These questions are organized into categories for ease of reference. You do not have to use every question, or every category of questions.

Client

Where do you fit in your family-of-origin's birth order?

How did you obtain your wealth?

Have you ever been divorced?

How many life partners have you had?

What does the word "wealthy" mean to you?

Do you consider yourself wealthy?

Do you expect to receive a gift, inheritance or other wealth from another source, and, if so,

When do you expect to receive it?

How much do you expect it to be?

Who or what is the source of the values that are important to you?

Who was instrumental in instilling those values in you?

Of your values, what are the 3 most important to you?

Why are these three the most important?

Do you feel that your descendants share your principal values? Why or why not?

What is your most important unfulfilled lifetime goal, and why is that particular goal so important to you?

How is your present general health condition?

Client

Have you ever declared bankruptcy?

Have you been sued for an amount that, if you were liable for that amount, would have bankrupted you?

Have you ever been sued?

If so, how many times have you been sued?

What is the present status of those matters?

How old were your parents when they died?

How old were your grandparents when they died?

What is your greatest fear?

What are your concerns about doing estate planning?

Have you ever envisioned your family immediately following your death?

What would that picture look like?

Does thinking about or discussing your death make you uncomfortable?

Have you ever discussed this subject with your partner or your family?

Does it make your partner or family uncomfortable?

Has that discomfort impacted your willingness to do estate planning or finish your estate plan?

Have you ever been involved in a contested estate or trust?

Client's Parents or Grandparents

Are your parents still living?

Have either one or both gotten remarried after divorce or death?

If so, how do you feel about that?

Have your parents discussed their wealth or business with you?

How did you feel about that?

Are (were) you close with your parent(s)?

If not, what happened to create the distance between you?

Client's Spouse or Significant Other

If you have a life partner, what is the present status of your relationship and how long has it lasted?

How many life partners or spouses have you had in your life?

How long did each relationship last and how did each end?

Did your parents approve of your choice of life partner?

How did that make you feel?

Have you ever been physically, psychologically or legally separated from your life partner?

If so, how long did the separation last, and what caused the separation to end?

If you have kids from a prior relationship, how do they and your new spouse get along?

How do you expect them to get along after your death?

How would you feel about your life partner having a new relationship after your death?

Do you feel your spouse will be able to physically or financially manage after your death?

Is there clear delineation between separate property of each partner, or has that blurred over time?

Do you think that there could be a dispute about who owns what if you two separated or if you die first?

How open are you about your life and your finances with your life partner?

Is there anything significant about either category that your life partner does not know?

Should your spouse be either your executor of your estate or trustee of your trust?

How do you feel about that?

Client's Siblings

Do you have siblings? If so, what is the current relationship with each sibling?

If there is a distance between the siblings, what caused break with them?

How did the way in which your parents raised you affect your relationships with your siblings?

Do any of your siblings have a serious mental illness or suffer from alcohol or drug dependence?

If so, how has this impacted your life?

Did your parents spend more money on a sibling than they did on you?

If so, please describe and state whether you felt this sibling was more favored by your parents?

Did this treatment had any impact on your relationship with that sibling.

Client's Children

Do you have children?

If so, what is the relationship between you and each child?

If the relationship is different or did you think you favored one child over the others.

How well do your children get along?

How do you expect them to get along after your death?

Do you discuss your business or your estate planning with your children? If no, why?

Have you made promises to any of your children concerning your estate planning?

What are the circumstances or details?

Is your present estate plan consistent with promises you made to your children?

If not, what are the differences.

Past Experiences With Estates Or Trusts

Are you or have you ever been, the beneficiary of an estate or trust?

If so, what was your experience, and how has that experience impacted your own estate planning?

Did you learn of your interest in the estate or trust from the person who gave it to you?

Were you asked for any input in the estate planning of the person who gave it to you?

If you received something from the estate or trust, did you get what you expected?

What was your inheritance and how was it structured?

What effect did the estate plan have on you, your siblings, cousins, aunts/uncles?

Have you been a trustee, executor or guardian/conservator?

If so, what was your experience, including whether anyone disputed your actions in those capacities?

Client's Views On Estate Planning

What are your general feelings about trusts, how they should be set up and how long they should last?

What are the best purposes for a trust?

At what age do you believe a trust should end, if ever?

Do you believe that the concept of co-trustees works? Why or why not?

How much discretion should a trustee be given to make distributions, ranging from none to full discretion?

How do you feel about banks or other financial institutions as trustees?

What are your reasons for your feelings?

Should a step-parent ever serve as trustee for a step-child? Why or why not?

Should a sibling ever be trustee for another sibling? Why or why not?

How important do you feel that death tax be minimized in your estate plans?

Should estate plans of parents divide equally between their children and issue? Why or why not?

Should an estate plan penalize a child for inheriting other wealth, financial success or marrying wealth?
Why or why not?

Is it appropriate for an estate plan to give incentives or disincentives for behavior? Why or why not?

Is source of cash to pay debts and death taxes something a testator has responsibility or obligation?

Why or why not?

Should parents discuss their estate planning with their children or their life partner? Why or why not?

Is it immoral to disinherit a child or life partner? Why or why not?

Client's Estate Plan

Have you or will you discuss your estate plans with your children or your life partner? Why or why not?

If you haven't, nor intend to discuss your estate plan with your kids or spouse, what are your reasons?

Do you think your estate plan should consider death, divorce, bankruptcy or disability of child or spouse?

If so, how should your estate plan do this?

Should your estate plan include a mechanism (mediation or arbitration) if a dispute arises between heirs?

Why or why not?

Do you plan to make significant gifts to a child, spouse or charity during your lifetime?

If so, define significant and what are your reasons?

If you want to make a significant gift, who do you want to give?

What amount do you want to give and to go to whom?

Do you want to divide your estate equally among your children?

If not, how would you want to divide your estate?

Client's Estate Plan

Do you want your life partner to share in your estate?

If so, how would you want to do that?

How do you feel your estate plan would affect post-death relationships of your spouse or your kids?

What prompted you to do this estate planning?

Do you usually read and want to understand your estate plan before you sign it? Why or why not?

How many wills or trusts have you had written or amended?

What prompted the creation or amendment of those documents?

What information about your estate plan have you or do you plan to give the intended beneficiaries?

How often would you want to review your estate plan after you sign it?

What would motivate or trigger you to update or revise your estate plan?

Charitable Interests

Do you intend to leave anything to charity?

What are your thoughts and intentions, spelling out the identity of the recipients of such a legacy?

What are your charitable interests and pursuits over your lifetime?

How much time and money (as a percentage of your income) have you donated in a typical year?

Would you characterize yourself as a loyal donor to any organizations?

If so, what are these charities and organizations?

Does tax savings at all motivate you to make sizable contributions?

If so, from 1-10, with 10 being the most motivated to give, how motivated do you think you are?

How interested are you in being publicly recognized (you or your estate) for a charitable gift?

How important to you is it that you or your family retains control over funds donated to charity?

If you had to choose, would you rather see your wealth passed to charity or to the government?

Family Business Interests

Do you own an interest in a family business?

Describe your interests in the family business, including the size (controlling or minority interest).

How many generations has the business been in your family?

How many generations presently work in the business?

Is there any property the business uses that is not in the business entity (Corporation, LLC)?

If so, how is that property owned and who owns it?

Does your business have buy-sell agreement or contract that limits ownership of the business entity?

If so, please describe and provide a copy of the agreement(s).

If your business has buy-sell agreement, when was it created?

Do you remember if agreement was fully negotiated by parties or was drafted by attorney?

Does the business have a fully functioning board of directors?

Does the board have any non-owner members?

Client's Estate Planning Advisors

Who are your principal estate planning advisors?

What are their roles and involvement?

How would you describe your relationships with your professional advisors?

How important is it that your estate planning advisors work well with and communicate with each other?

Do you feel that your estate planning advisors fully understand your feelings about your estate planning?

How well do you feel that your estate planning advisors truly listen to you?

Are you concerned that your advisors have any conflict of interest? If so, what do you think they are?

How concerned are you about the complexity of your estate planning documents?

Do you feel that you truly understand those documents?

Have you provided all material information to your estate planning advisors?

If not, what have you withheld and what was your reason for doing so?