Santa Barbara Estate Planning Council

Multi-Disciplinary Estate Planning

Workshop Agenda

October 24, 2023

- 4:00 p.m.- Registration (Mingle, get cocktails/beverages and find your assigned tables)
- 4:15 to 4:30 p.m.- General Assembly / Kick Off
- 4:30 to 6:00 p.m.- Break-out Groups/Table Discussion
- 6:00 to 7:00 p.m.- Dinner, General Assembly for Review of Case (Opportunity for representative from each table to present their group's observations, comments and ideas)
- 7:00 to 7:15 p.m.- Final Comments and De-Brief
- 7:15 to 7:30 p.m. – Adjourn

An Overdue Review

Basic Facts

Our client is WENDY EVANS. She is 57 years old, a chef, and a rising social media influencer.

Wendy's prior husband, HANK EVANS, was a physician and a good investor. **Hank died on July 1, 2020**. Together, they had accumulated, with the help of a modest inheritance, a net worth of **approximately $26 million**. All of Wendy and Hank's property was 100% community property. *Neither Wendy noir Hank have used any of their estate/gift tax exemption*.

In 2007 prior to Hank's death, he went to an estate planning seminar and purchased a DIY trust creation kit. He put in place a living trust that provided for creation of a bypass trust and survivor's trust when the first spouse died. The terms of the bypass trust are such that all income must be paid to Wendy for life, Wendy can receive distributions of principal for her health, support, and maintenance, and Wendy is the sole beneficiary of the bypass trust during her lifetime.

Hank and Wendy transferred all of their assets and accounts into the name of the living trust. The co-trustees were initially Hank and Wendy. Wendy is the sole successor trustee on Hank's death, and the next successor trustee is WorldWide Bank, which is now out of business.

Wendy had two children with Hank, ALFRED and BERNARD. Alfred graduated from a prestigious collegiate art program and is doing well in the art industry in New York. Bernard is in construction and has had a drug problem. He has been in and out of rehab, however he is currently 6 months clean and sober. Wendy fears that money could fuel another relapse for Bernard.

Wendy is now engaged to PAOLO BIANCHI. Paolo is 39 years old and a local yoga teacher. He is a U.S. long-term resident and a citizen of Italy (not he U.S.).

After 3 years of psychological recovery and yoga classes following Hank's death, and only filing annual income tax returns, Wendy is now ready to get a handle on her financial affairs. As of July 1, 2023, she has agreed to assemble a team of advisors to review and amend all aspects of her proposed financial and estate plan. She has begun her homework and has gathered a number of questions, which she wants to discuss with the advisory team. She understands it will take several sessions.

Wendy's inherited assets are shown on the attached schedule. She has inconsequential liabilities. All assets, other than the IRA, are titled in the name of the Hank and Wendy Evans Trust. Wendy was the sole beneficiary of Hank's IRA, which she rolled over and combined with her own following his death. The new IRA's beneficiaries are 50% Alfred and 50% Bernard.

The cash flow from her LLCs is very good. She has talked with some real estate professionals and they think all of the investment real property that she owns is likely to grow in value if she upgrades the facilities and secures good tenants as they have advised. The condos and office building are in good locations and will probably exceed the normally expected appreciation.

Wendy's Goals

Wendy loves Paolo, and she feels that he loves her. But, Wendy realizes Paolo is a profligate spender, especially when he knows he's spending her money. If anything happened to her, Wendy would want to offer Paolo the chance to be comfortable, but not at the expense of Alfred and Bernard's rightful inheritance. Therefore, she would want to set Paolo up in some limited way that allowed him receive money, but not the entire amount at one time.

Through Wendy's work as a chef and influencer, she has met Chef Jose Andres and is very impressed with his World Central Kitchen non-profit organization. She wants to give a meaningful amount to this organization, but of course wants to do it in the smartest financial way possible.

She has understood that to accomplish some of her objectives, she will have to relinquish control to some extent. But, she wants that to be as little as possible in the early years as she gives her sons the opportunity to get more investing experience. Wendy wants to provide her sons with the wealth management skills she never had and to always consider the needs of others through charitable gifts and work.

Issue #1 – Trust Administration & Subtrust Funding

Wendy understands she is the trustee of the Hank and Wendy Evans Trust. She also has all the documents that Hank put together for the living trust. However, following Hank's death, she did not feel up to the task of reading and understanding all the legalese. She now understands that she should have set up different trusts and retitled assets.

Wendy is wondering if she has to still do anything, and is ***asking for advice on what should be done now***.

Issue #2 – Retirement and Investments

Wendy wants to get the most net wealth to her sons, but she will need sufficient income if and when she and her fiancé retire. She envisions that she would like to pursue other personal interests and volunteer for global food charities, like World Central Kitchen. Her question is how she **can produce about $650,000 per year, before taxes, for her retirement**. She expects that she will enjoy a normal life expectancy, if not better, given she is in excellent health.

Early in Hank's medical career when Alfred and Bernard were young, he bought a $5 million second-to-die insurance policy. Wendy was aware of this, but thought it was paid up. She recently received a letter from the insurance company stating that a premium payment of $18,000 is due. She does not know what cash value is in the policy.

Wendy is wondering how her liquid investments should be allocated among various types and sectors and whether she still needs the insurance policy.

Issue #3 – Gift/Transfer Tax Strategies

Wendy has a lot of strong political feelings. Not feeling confident that the tax exemptions will not be changed in the future given Congressional dynamics, she would like to discuss which assets would be possible transfers, with a view to using all or most of her gift tax exemption as it is in 2023.

And, even though her sons currently have no children, Wendy is wondering whether or not any gifts to them should contemplate grandchildren and the possible use of her Generation Skipping Tax Exemptions. She wants an explanation of the tax implications of the exemption(s). She would also like to understand the concept of "discounted" values in making gifts and which assets are "discountable."

She has heard that the gift tax exclusion is now $17,000 per donor per year. ***How should she take advantage of this exclusion?***

Should life insurance be obtained by the IDGT and, if so, what rules apply? How could it be acquired without having the premiums subject to gift taxes? Does an ***Irrevocable Life Insurance Trust (ILIT) make sense for Wendy*** (who is in good health and only 57 years old)?

Wendy's aunt has established a ***Qualified Personal Residence Trust (QPRT)*** and Wendy would like an explanation of this vehicle and ***recommendations as to whether or not she should also consider it***.

Wendy has been doing some internet research following a casual comment by one member of the team in an earlier session who mentioned an ***Intentionally Defective Grantor Trust (IDGT)***. She wants to know how this strategy works, and ***recommendations as to whether or not she should also consider it***. If so, which assets might be transferred to it, and how she could continue to manage those assets in the near term as trustees or otherwise? Would it make sense for her to consider establishing such an IDGT outside of California?

Wendy would like to know how transfers could be made to the IDGT without paying taxes if her gift tax exemptions have been fully used. Also, what if she does <u>not</u> wish to pay the income taxes on assets held in these trusts (out of concern for her future cash flow)?

Issue #4 - What's Left to Be Taxed, How Much, and How Paid? What should Wendy's Estate Plan Look Like?

Consider: Which assets are Wendy likely to own at the time of her death, which assets will be subject to estate tax, how much are the taxes likely to be, and how will those taxes be paid?

If Wendy got remarried in the future (e.g. to Paolo), ***how would you recommend structuring her future estate plan to reduce her tax burden?*** Would you recommend the use of another bypass or marital deduction (QTIP) trust?

Is there ***charitable planning*** you might recommend (keeping in mind her support of World Central Kitchen)?

As the final planning ideas are adopted, she wants her sons to be present so they can understand what has been done, what remains to be done, and how the sons can participate as part of their financial education. Is this a good idea?

Should Wendy make any changes to her plan to protect her children? If so, what do you recommend?

Wendy Evans and Paolo Bianchi
Assets and Income
July 1, 2023

	DOD (7/1/2020) Asset Value	Current (7/1/23) Asset Value	Income Generated by Assets Wendy	Paolo
Assets and Income:				
Liquid Investments - Stocks, bonds, and MM funds	6,000,000	6,000,000		
Interest income			10,000	
Qualified dividends and LTCG			110,000	
IRA account	5,000,000	5,000,000	-	
LLC A, which holds several small shopping centers in California that has been held several years	4,000,000	5,000,000	200,000	
LLC B, Which holds two shopping centers in Texas acquired last year as distressed purchases, paid for in cash	3,000,000	2,000,000	70,000	
Medical office building in California rented to various practices	2,000,000	3,000,000	120,000	
Vacant lot	400,000	800,000	-	
Primary residence (located in California)	2,000,000	2,000,000	-	
Vacation home (located in Wyoming)	600,000	1,000,000	-	
Art, jewelry, and other personal property	1,000,000	1,000,000	-	
Condo A (in California), occupied by Alfred*	800,000	900,000	-	
Condo B (in Nevada), occupied by Bernard*	700,000	700,000	-	
Condo C, California rental property (a distressed purchase, no mortgage and good appreciation prospects)	500,000	600,000	20,000	
YouTube royalties and sponsorship contracts			225,000	
$5 million second-to-die insurance policy	400,000	150,000		
Sole proprietorship (dba Yogi Cannoli)				50,000
Total income	**26,400,000**	**28,150,000**	**755,000**	**50,000**
Expenses:				
Estimated income taxes (federal and state)			280,000	6,000
Living expenses (including charitable contrib)			125,000	100,000
Total expenses			**405,000**	**106,000**
Net surplus (deficit)			**350,000**	**(56,000)**

* Sons pay small rent - Enough to cover their parents' mortgage, property taxes, and insurance)