Gifts of Business Interests, Commercial Real Estate, and Qualified Plan Interests

The Riley Case: Gift Planning Across our Disciplines DRAFT as of 10/23/15

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How can we, from our respective seats at the planning table, help this family in business achieve its goals and aspirations for the family, for the charities they love, and for their community?

Acknowledgement

I would like to thank Dave Holaday, ChFC®, CAP® who created this case pro bono for The Chartered Advisor in Philanthropy program. I have known Dave for many years. He is the Mozart of Financial and Estate Planning when it comes to running the numbers, and convening and supporting effective cross-disciplinary planning teams.

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Dave's Bio

For more than 28 years David Holaday has provided consulting services in the areas of tax, charitable & wealth transfer planning. He has served individuals, independent estate planning professionals, financial institutions, & charitable organizations. With a national reputation for developing unique and comprehensive solutions for complex family situations, Dave collaborates with the client's existing tax, legal, insurance & investment advisors. Prior to founding Wealth Design Consultants, he co-founded and later sold The Wealth Design Center (a technology, training and consulting firm).
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Executive Summary

The Rileys

JD Riley and his wife, Mary, own a business, an S-Corp, worth about $18 million with low basis. He is now 70. She is 69. JD built the business. It is his identity. He hates the idea of selling out, and "being over the hill." He sure does not want to stand down, step down, or step aside. Yet, the time is coming. He knows he should sell in the next few years, if not sooner. His health is good, but has begun to read his college news, starting with the obits, rather than the weddings. Mary is active in the business, as comptroller, and as a board member and volunteer with a local charity, Save Our Children. The Rildeys are loyal donors to their house of worship, schools, and to Save Our Children.

The Rileys have several grown children and several grandchildren. One works in the business, but will not be the buyer of the firm. All the children and grandchildren are doing well. None depend on the parents for support. The family has "family issues," as all do, but they do not drive the planning.

The Riley's net worth is around $21 million, but they live relatively modestly, with after tax spending of $20,000 a month. They give cash gifts each year to the children to reduce the size of their estate. They give about $30,000 a year to charities, with the largest amount going to Save Our Children.

They say they want to reduce estate taxes in favor of charity and children. (They would owe about $4.5 million in estate tax if both died tonight). They also are concerned about income taxes, and about the capital gains tax due if they sell the business.

In discussion with advisors, the Rileys have said they would like to give or bequeath $5 million to charity, during life or at death. This represents about 25% of their wealth. They want to do that because it is who they are; they want to set an example for the children and grandchildren; they believe they owe it to the town where they have their business; and because they want to leave behind them a town worth living in for those who come after them.

In addition to the business itself, they have commercial real estate, ranch land leased to his brothers, an IRA and a 401(k), their home, a vacation home, and some marketable securities. Cash on hand is about $150,000. The business and land associated with it is about 80% of their net worth. The business and the commercial property have "low basis." The ranch land, having been inherited recently, could be sold without significant taxable gain.

They have a local "all purpose" advisory team, with a financial professional, attorney, and CPA. These are among the best professionals in a small Texas town. For each of them, the Rileys are their best client.

1. BACKGROUND: THE RILEYS

JD Riley grew up on a cattle ranch. He learned how to rope and wrestle a calf to the ground by the age of 13. He and his two brothers worked the ranch with their father from as early as he could remember. JD went to State Agricultural and Engineering University and got his BS in Industrial Engineering. He was a good student. With his father's encouragement, he decided to get his MBA as well. He returned to the family ranch and began to take on some of the business management duties.

In business school JD met Mary. Mary grew up in an upper middle class family in the suburbs and got her BA in Early Childhood Education. JD and Mary fell in love and married at age 24. By the time they were 30 they had 3 kids.

After several years JD became increasingly restless working on the ranch. He was eager to prove what he could do outside a family environment and eager to use his engineering skills as well. He found a job at a local stone and brick manufacturing company that supplied architectural building materials for the construction industry. Over several years, JD learned the technical aspects of manufacturing as well as the marketing and management side of the business. Within 3 years he was the Operations Manager. He saw that times were changing and that volume and market penetration was becoming increasing important to remain competitive. He shared his insight and vision with the owner but, at the age of 64, the owner did not want to make the investment in plant and equipment. The owner also lacked a business succession plan. JD saw the opportunity. He went to his dad and shared his vision and asked if he would be willing to back him financially to buy out the owner. It all worked out. Within a year, at age 32, JD was the owner of UltraStone, Inc. JD set out immediately to build a new brand and launch a new marketing campaign. He hired a marketing firm and expanded his sales staff. He cut his less profitable lines of business. He invested in new technology and equipment to improve the quality of his product and increase his capacity. It was risky. But it paid off. Within two years he was profitable. Within 5 years he paid off the owner who carried a note for part of the business and within 7 years, he paid off his dad who lent him the down payment. Once the notes were paid off, JD was able to reinvest much more money back into the business. He resisted the temptation to give himself a large raise.

JD inherited a work ethic from his dad. He worked long hours. He didn't make it to all the kids' ball games and dance recitals but he made as many as he could. Their two oldest kids went to his alma mater, State A&E, and the youngest went to that "other" state university. It was a house divided, but everyone had fun at the big sporting events. It made for some interesting family dynamics.

Jody, now age 45, was their first born. She was smart but did not inherit her dad's work ethic. She wanted to hang out with her friends. In college her sorority sponsored a service project at a local nursing home. She discovered she had a great interest in caring for seniors. She got her degree in social work and quickly found a job at a senior living community in the suburbs. She married Tyler Combs. They met in school at a Greek mixer at State. Tyler earned his BS in accounting found a job at a local accounting firm. After several years in the audit department, he was happy to be moved into tax work. His social skills and family connections enabled him to be instrumental in bringing on several sizable new clients which lead to him making partner. He and Jody have 2 children, ages 8 and 6.

Heather, age 42, was their second child. She is more disciplined than Jody and more reserved. She graduated with a double major in English and Psychology and went on to get a Masters in Psychology. She was the most studious of the kids. She is a good writer and a surprisingly good speaker considering how shy she appears to be. She got a job at a firm that provides psychological profiling and screening for companies. Recently, she was promoted to training manager and trains all new hires on how to administer the company's products, systems and services in the field. She is married to Derek. They have one child, age 3.

Garrett, age 40, is their youngest. Garrett was the athlete in the family (although JD still brags he could beat him in a bull riding competition). He played football in high school and was homecoming king. He was very popular and very bright, but he got into trouble as a teen. He was arrested for under-age drinking. He spent a night in jail for driving while intoxicated. He graduated with a degree in sports management, but he couldn't find a job in his field. JD said he would give him an entry-level job in sales at the stone company calling on architects and general contractors. Garrett agreed. As it turned out, he really liked the work and did well. He was a natural salesman. Garrett married Alissa and they have two children ages 5 and 2.

JD's formula for business growth worked. Like any business, there were good times and bad. They endured the ups and downs of the construction industry, high interest rates and employee problems. JD was conservative. In the good years, he saved and reinvested in the business. He was persuaded that his best investments would be in his own business in research and development and marketing. He knew he was taking risks, but he always had enough confidence that his methodology would work in all but catastrophic circumstances. And work it did. By the time JD was 40, he was supplying manufactured stone to several counties around the nearest major metropolitan area. But shipping expenses limited his ability to be competitive outside his local market. He knew if he wanted to expand he would have to develop manufacturing facilities very close to major metropolitan areas. So he decided to develop a franchise and license his technology across the country. Now, at age 70, his local store is producing profits of over $800,000 annually. His franchise company has 32 franchises and produces profits of $1.8 million.

By the year 2000, JD and Mary had begun to make annual gifts to their kids. They began at the rate of $10,000 annually. As the years went by, they increased these gifts as the annual gift tax exclusion increased and added spouses as their kids got married. Mary said, "We wanted to help them while they were young and needed the money."

JD's dad passed away 10 years ago and his mother followed 5 years later. Their estate plan left all the ranch and property to JD and his two brothers equally. JD would have preferred just to collect his share and sell it for cash. But he knew the value the family placed on the land and, in the interest of family harmony, worked out an arrangement with his brothers. He sold half of his inherited acreage to his brothers on a 20-year promissory note. The other acreage he leases to them.

2. Assets

Asset	Owner	Value	Comments
Cash and equivalents	Joint	$150,000	
Marketable securities	Joint	350,000	Publicly traded mutual funds
Promissory notes from brothers	JD	560,000	Pays $88,000/yr. 12 years remaining.
UltraStone, Inc.	JD	4,000,000	Local dealer. JD's original company.
UltraStone USA, Inc.	JD	12,000,000	Franchisor with 32 franchisees nationwide
Retirement plan, 401(k)	JD	430,000	
Retirement plan, IRA	Mary	110,000	
Business real estate	JD	1,800,000	Lease pays $110k/yr. Flexible.
Inherited ranch land	JD	720,000	Leased to brothers paying $15k/yr. Current
Personal residence	Joint	550,000	No mortgage
Lake cottage	Joint	800,000	RE taxes = $8k/yr
Personal property	Joint	300,000	Automobiles, furnishings, jewelry, etc.
Total		$21,770,000	
Liabilities			None except for working capital lines of credit reflected in value of businesses.

3. Income

Source	Amount	Comments
Salary and bonuses	$150,000	
Interest	1,500	
Earnings from brokerage accounts	29,400	
Interest from promissory notes	33,000	Taxable portion of payments
Schedule C income from UltraStone, Inc.	640,000	Expected to increase at 5% annually
Schedule C income from UltraStone USA, Inc.	1,440,000	Expected to increase at 10% annually
Schedule E income from business lease	108,000	
Schedule E income from ranch lease	14,400	
Social security income	28,000	
Total	$2,411,000	

4. Sources and Uses of Cash

	Amount	Comments
Consumed for lifestyle	$240,000	
Federal and state income taxes	961,000	
Cash gifts to family	56,000	
Cash gifts to life insurance trust	42,000	
Cash gifts to charity	30,000	
Reinvestment in business	750,000	Expected to continue until sale
Reinvestment in other things	150,000	Retirement contributions, other things
Surplus/investments in other things	332,000	
Total uses of cash	$2,411,000	

5. CHARITABLE GIVING HISTORY

JD and Mary had always been active in their house of worship and community. JD serves on the vestry committee at their house of worship. They give $5,000 a year. Through their involvement as parents in the High School their children attended, they met a dynamic woman, Digna Jimanez, a mother who had lost her son to drugs, who was starting a drop-in center for at risk kids. Mary serves on the board, chairing the finance committee, and volunteers three times a week as a counselor. In addition to their regular annual board gift of $10,000, they decided to make a major contribution ($50,000) that enabled the center to furnish and equip its rented facility. They have supported Habitat for Humanity, providing building materials at or below cost. They are longtime loyal contributors to their alma maters ($3,000 each), but have declined to make some of the larger gifts for which they have been asked. They give to almost 50 other charities, responding when asked, with gifts ranging from $10 to $500.

JD and Mary are friends and neighbors with Joe and Barbara Trainor. Joe and Barbara's family and businesses experience was similar to JD and Mary's. Several years ago they sold their business and got heavily involved in several community service organizations in the community. JD and Mary found that attractive and thought that they also might move in that direction as time and finances permitted.

6. CLIENT ADVISORS

JD's financial advisor, Ted has been a long-time friend. Ted has a financial planning practice in town and chiefly does retirement planning and asset management. Most of his client accounts are under $1 million.   Ted has offered financial advice to JD mainly in the area of implementing and servicing the company's 401(k) plan. During a recent meeting, Ted brought up the topic of business succession and retirement planning. This lead to a much broader discussion about philanthropic planning and family wealth transfer planning. It became apparent to Ted that JD and Mary would benefit from a comprehensive planning review. He suggested that this should start with a detailed discussion about their goals and their current financial situation.

JD's accountant is Harvey. Harvey had his own practice when he started with JD in the early days, but sold his practice to a regional firm about 10 years ago. This was good news to JD since he liked the additional resources Harvey was able to bring to the table as part of a bigger accounting firm.

JD's lawyer is Shirley. Shirley is a general practitioner. Her practice is about 40% business, 40% estate, trust and administration with the rest being various other things. She prepared the Riley's wills and trusts 7 years ago.

7. Goals provided to Advisors

After several interviews with Ted, JD and Mary articulated the following goals:

1. Take care of ourselves and not be a burden on others in old age. Our after tax income needs are $20,000 per month net of taxes, family gifts, charitable gifts, investments, etc.
2. Sell the business in 1 to 3 years. Continue the process of improving our business systems, filling and developing key leadership staff so the business is less dependent on JD and more attractive to a buyer. Consider ways to make our operation more efficient to increase our Earnings before Income Taxes, Depreciation, and Amortization (EBITDA). We do not want to transfer the business to Garrett. His primary strengths are in the area of sales, not management. But he will be an asset to the next owner or be able to earn a good living elsewhere.
3. Reduce income tax on the sale of the business. Consider charitable planning strategies for this if it is feasible.
4. Consider asset protection issues and restructure the ownership of our key assets to reduce our exposure to lawsuits, etc.
5. Minimize estate taxes.
6. Provide for our family from our estate. When asked how we would like to divide our estate between family, taxes and charity; we said 75% to family, 25% to charity and 0% to taxes. We want to know if this is feasible with conservative strategies that do not jeopardize our income or compromise our flexibility and security.
7. Provide half of the college expenses for our grandchildren for a state university education. This should take approximately $20,000 per year for each grandchild for up to 4 years.
8. Make sure any inheritance we leave to our family cannot ever be transferred to ex-spouses of our children in the event of a future divorce.
9. Keep the lake cottage in the family and make it available for future generations. We want our family to continue to gather in this place that has become so special to us.
10. We feel that giving is a responsibility. We want to develop a strategy to accelerate and facilitate the philanthropic motivations of our children and grandchildren.
11. Develop a strategy to celebrate and perpetuate the core values which have contributed to our success and prosperity. We want to be intentional about family gatherings. We built our prosperity on hard work. We want to inoculate our family members from developing an entitlement mentality.

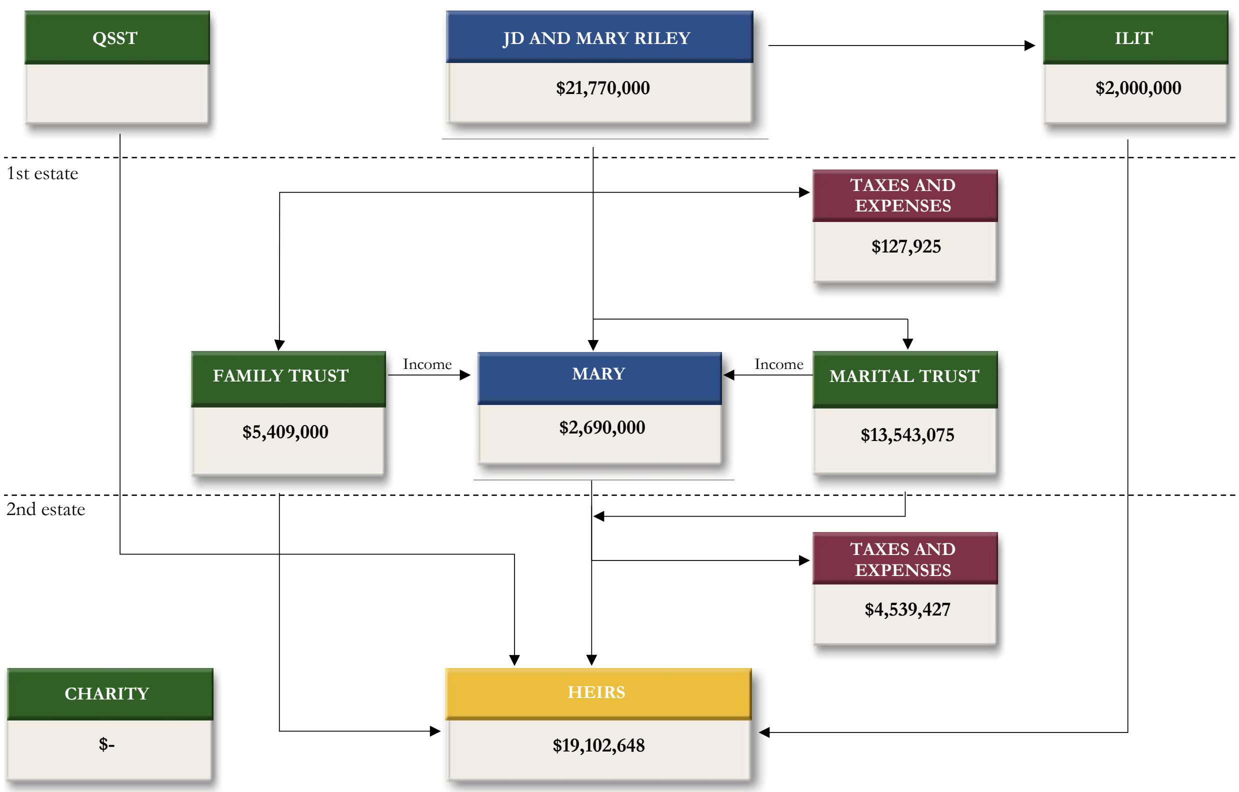
8. Overview of Existing Legal Documents and Prior Planning

Seven years ago Shirley helped JD and Mary updated their estate plan. At that time, they executed pour over wills, Revocable Living Trusts, Durable Powers of Attorney and Healthcare Directives in which they name each other as primary representative. They also established an Irrevocable Life Insurance Trust, funded with a $2 million second to die policy. Their estate distribution plan was relatively simple. It provided for the funding of a Family Trust with the exempt amount at the first death. It provided that the family would receive the remainder at the second death. The living will provided minor charitable legacies.

When JD started UltraStone USA (the franchisor), he structured the company so that 30% of the shares were owned in a Qualified Subchapter S Trust for the benefit of his three children. These shares were non-voting shares. The heirs are aware of the trust exists and know that its owns some of the company stock, but the only distributions they receive are in the amounts needed to pay taxes,so they have never received any spendable income from the trust. JD estimates that these shares may be worth, after minority discounts, about 20% of the value of the company. He doubts his children are aware of the magnitude of this value. He is not in a hurry to tell them about it, but knows it must be done someday.

CURRENT ESTATE DISTRIBUTION DIAGRAM

DEATH OCCURS IN 2015



9. About Save our Children

About the Organization

Established in 1995, in the home of its founder, Digna Jimanez, Save Our Children now operates out of a rented space in the warehouse district. Digna founded the organization after losing her own child to drugs and alcohol. The program work is done primarily by board members and volunteers, along with the founder and president, Digna.

The organization is doing stellar work, run on love and volunteer commitment. Hundreds of children are helped each year. Perhaps a dozen or more are saved annually from drugs, alcohol, crime, and craziness. Several each year rise out of challenging circumstances and go to college, in large part through the 'parenting' of Save our Children volunteers, but the financial future is dicey. Books balanced last year, but the year before the organization had to draw on its small emergency fund to pay rent. The emergency fund is down to $35,000. The organization has no endowment. Because of budget stress at the state level, it is likely that the organization will lose its state contract of $25,000 in the next year or two. Their biggest and most reliable funder has been Rice Foundation, a family foundation in Dallas, founded with oil money two generations ago. The foundation is transitioning to a new generation of the family. The foundation has pledged one year of future support, but has indicated that future priorities are shifting to more "scalable" organizations with businesslike metrics.

Sources of funds	Amount	Comments
Federal, State and local government grants and contracts	$100,000	May soon be reduced
Rice Foundation (Regional private foundation)	$75,000	Have been notified priories are changing
Other Foundation grants (7)	$100,000	Ok for now?
Events	$25,000	Gala, silent auction, car wash, bingo night
Board gifts	$25,000	
Other fundraising	$25,000	
TOTAL	$350,000	

Uses of funds	Amount	Comments
ED Salary	$60,000	She is 50. Could not be replaced for less than $75,000
Salaries for two full time and 3 part time staff	$175,000	Office manager, age 31, is being groomed as successor but cannot support herself on her salary. No full time fundraiser
Benefits	$35,000	
Rent	$35,000	
Utilities	$10,000	
Professional services	$15,000	
Insurance including liability	$15,000	
Materials for use with those served	$20,000	
TOTAL	$350,000	

Digna considers Mary a comrade in arms. She is grateful for the annual board gift, and for the $50,000 that furnished the facility and purchased second hand computers and software. Without Mary's ongoing solicitation of fellow board members, neighbors and friends, the organization might have folded years ago.

In the ideal world, the organization, Digna feels, should have its own building ($400,000), and emergency fund equal to one year's expenses ($350,000). To replace the (formerly) reliable income from the regional foundation, $75,000 a year must be earned or raised. Jackie, a part time office manager, and volunteer could take the reins when Digna, age 50, some day retires, but is going to need a significant raise soon, or she will have to move on. Without Jackie, the organization may become chaotic, since most systems are in Jackie's head. Neither she nor Digna are good with technology.

While the organization is getting results, those are largely undocumented. “We cannot fund based solely on anecdotal evidence,” says Rice Foundation. Metrics are increasingly required by other foundations, and also by state and local government funders.

Word about Save Our Children has spread among teachers and parents throughout TX. The organization has been approached by several other towns, hoping to replicate its grassroots efforts, but Save Our Children does not have the resources to put together a replication package or train those from other towns.

Digna dreams of a national movement, sparked by her “proof of concept,” that could unleash the love and volunteer energies of parents and citizens throughout the state, the region and even the country, but each day is consumed with just keeping the organization alive.

10. About Small TX Community Foundation

About the Community Foundation

Founded 35 years ago, the Foundation serves the town and surrounding rural area. It has a staff of five, including the President, two back office staff, a comptroller, and a program officer, making grants and offering advice to donors. The CF offers donor advised funds, designated funds, area of interest funds, and supporting organizations as well as accepting gifts for “highest purpose,” to be determined by board.

Sources of Funds: Approximately 75% of funds to the CF have come directly from donors referred by advisors. Historically, the funds came from trusts and estate attorneys and trust bankers who handled testamentary arrangements. Increasingly, the new money is coming from financial advisors who recommend donor advised funds.

Asset Management by Advisors: With permission of the client, advisors can manage the money in a Donor Advised Fund, Area of Interest Fund, Designated Fund, or Supporting Organization, for balances of $500,000 or more.

The President: Chad is out and around in the community, and is the best person to make a large “ask.” (Chad hopes, once he can grow assets, to be able to afford a full-time, technically proficient, gift planning officer to build connections with donors and advisors.

Thought Process of the President of this Small CF

Chad wants to help the Foundation, of course, by garnering funds. Legacy unrestricted funds are the easiest to manage, but are increasingly hard to obtain. Increasingly donors want more “say so” over grants. Donor advised funds are a growing percentage of the funds raised. Above all, Chad sees the CF as the “hub” for local philanthropy. Having grown up in the area, he wants to see it thrive.

Through an association Bryan Clontz, with a national organization, Charitable Solutions LLC, the CF can accept gifts of noncash assets, including S-Corp stock.

Chad has met the Rileys who seem to show up for several local charities. Chad knows Ultrastone is successful, and is a linchpin of the local employment scene. The Rileys do not have a donor advised fund at the CF, but seem to fit the profile as successful, civic minded folks.

Chad does not know a lot about Save Our Children, and does not make grants to it from his endowment, but he has noticed that the group has grassroots support. As a parent himself, Chad has heard about the organization through his child. She mentioned that a friend of hers, who was in trouble awhile back, has been getting counseling there.

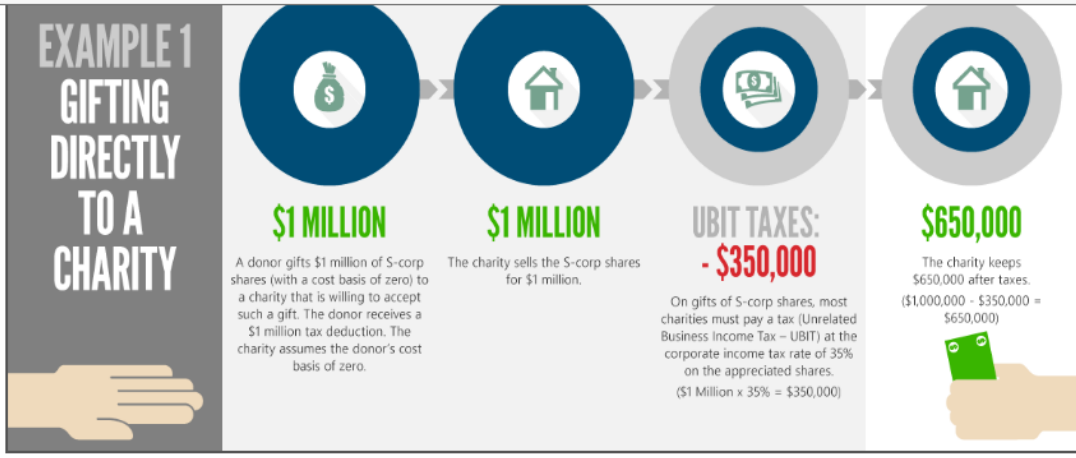
11. About XYZ National Gift Fund

About the Fund

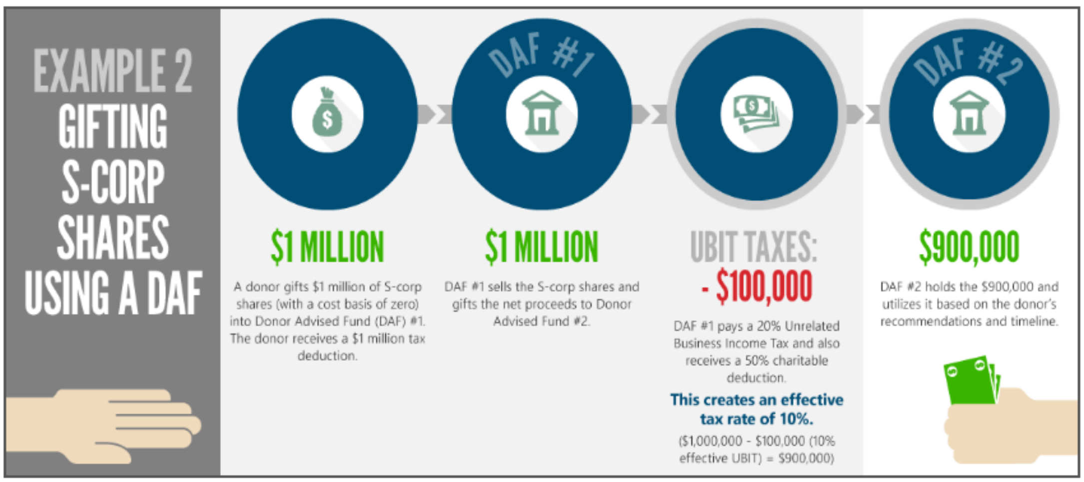
The fund complex provides Donor Advised Funds, Area of Interest Funds, Designated Funds, and Supporting Organizations. Advisors, including attorneys, CPAs, and financial advisors are actively courted. National Gift Fund is focusing increasingly on gifts of noncash assets, and provides specialists to assist advisors with these transactions. Noncash gifts are the fasted growing share of new accounts, by total volume. Median cash gifts are $16,000. Median noncash gift is $700,000. Last year the organization did 500 significant non-cash transactions. The largest was $100 million. National Gift Fund “white labels” its services through several national financial services organizations. It provides some customized donor grantmaking advice, but its strength lies in its efficiency of operations, leading to low cost ratios in its funds, in comparison to Small TX Community Foundation.

Team Supporting Gifts of Noncash Assets

On staff at National Gift Fund are two tax attorneys who specialize in noncash asset transactions, and a former gift acceptance officer for a large university. Here is a snip from American Endowment Foundation. Fidelity Charitable, Schwab Charitable, National Philanthropic Trust, Charitable Solutions, Community Foundations, Jewish Foundations, and others also facilitate such gifts.



Avoiding the fact that some charities may not have the capability nor desire to accept S-corp shares, there is a way that the donor could make a donation of these closely held shares that is tax-smart and allows more money available for charitable gifts. Let's look at the example below:



Nuances

S-Corp gifts have many nuances. What is the basis of the stock? Is there any part of the gain that will be considered as being ordinary income? Will the buyer want the stock, or just the underlying assets? Can the S-Corp itself make a gift of an underlying asset to a DAF? Can the charity, or DAF provider, accept the stock in a timely fashion? If there are carrying costs prior to sale (as taxable income leaks through into the DAF or to the charity) will there be cash from donor or S-Corp to cover those costs? Will the DAF provider charge a “hair cut” on the sales proceeds? What about the land leased to the business? Is that a suitable gift asset? Will it matter that the land generates business income through the lease? Are there any self-dealing issues? Who will conduct the valuation? What will it cost? Who will pay? Will the gift be so large that it would exceed the annual AGI deduction limits? Will the donor’s income be so high that the Pease Amendment (phase out of itemized deductions for high income earners) apply, with what net effect? If the land or the business interest go into a DAF, or Designated Fund, will there an “assignment of income” problem if a buyer is waiting in the wings? If no buyer is found for more than five years will this violate the excess business holding rules?

Ted's Connection with XYZ Gift Fund

Ted, the Riley's lead advisor, has a relationship with XYX National Gift Fund through his broker-dealer. He can manage money inside their funds, for a minimum amount of $250,000 aggregated across accounts. Ted has never done a DAF for any clients to date. The nuances of big gifts, particularly of S-Corporation stock are hazy to Ted, even after his preliminary online research. He has called the charitable giving expert at this broker dealer, and feels he has some "back up," if technical issues arise. He has also called the hotline at XYZ National Gift Fund, and has talked briefly with their in-house tax experts. He has been assured that the Riley's seem like live prospects and that the staff at XYZ can walk him and the Riley's through the necessary steps.

12. About State Agricultural and Engineering University

On file about the JD Riley (alum)

Donor research indicates that the Rileys are worth at least $10 million. They seem to be living well, but not lavishly. Apparently, they have a vacation home. JD has been a loyal giver since graduation. His giving started as $50 a year and has risen to $3,000 a year. Five years ago, he was asked for $30,000 for a capital campaign. He gave $10,000.

High Priority Gift Opportunities for State U.

The school has particular needs for programs that can make a real difference in the community. The gift opportunities below are in priority order, as determined by the President and the Board.

Priority	Gift Opportunity	Principal to Endow	Annual "Spend" at 5%
7.	Name a classroom	$250,000	N/A
6.	Named Scholarship Funds	$1,000,000	$50,000
5.	Fellow in Residence	$2,000,000	$100,000
4.	Chair	$3,00,000	$150,000
3.	Distinguished Chair	$4,000,000	$200,000
2.	Center for Innovation	$5,000,000	$250,000
1.	Center for Innovation with a Distinguished Chair to head it and staff to support it	$10,000,000	$500,000

Bernadette

Bernadette Knox is the major gift officer charged with calling on JD, as part of a portfolio of 125 donors she is expected to cultivate for a face to face ask. Her annual quota is $4 million a year, of which up to 20% can be “expectancies,” meaning testamentary gifts, like remainder interests in a CRT, life insurance, or a legacy via a will, or via a qualified plan interest. She is given credit towards her goals if the testamentary gift is documented with a letter from her donor. Bernadette, age 41, has been in fundraising for 15 years, having worked for 6 charities over that time. She has basic knowledge of planned gifts, but relies on Sheila Smith, the head of planned giving, when she has a technical question, or needs a planned gift proposal. Bernadette was assigned the Riley’s after Bo James, a prior fundraiser moved on to take a higher paying job as head of gift planning for a hospital. Bernadette as not met the Riley’s as yet.

Based on giving history, Bernadette feels the Rileys may be “good for” as gift of as much as $30,000 (ten times J.D.’s annual gift), but sees in their donor file that they passed on such a gift two years ago, when Bo had made the ask.

“Give the Spend”

Recently, Bernadette read *Inspired Philanthropy*, by Dr. Steven Meyers, VP of Personalized Philanthropy at The American Friends of Weizmann Institute. She is intrigued by the idea of getting donors to “give the spend,” with a pledge for a certain number of years, with the principal amount coming later, or at death. She thinks this might open up new prospects for gifts, and she feels her supervisor will support it, if she can generate donor interest.

Pay off the Balance

Bernadette recognizes that working with advisors is easier than working against them. She wonders what advisors would come up with, as to paying off the balance later or at death? Liquidity event? Bequest? IRA proceeds at death? Life insurance to charity? Life insurance to replace gifted assets?

Professional Advisory Board

The University has had a professional planned giving advisory board but it fell apart, since there was little new to discuss. There are just so many times advisors want to hear about a Charitable Remainder Trust. Bernadette wonders if maybe personalized philanthropy for gifts of noncash assets might be of interest to those who had served on the professional advisory board. Maybe that insurance and investment guy, Ted? Didn’t he once serve on the advisory board? Maybe he will be at the next PPP meeting. Might be worth catching up with him.

Appendix A: "Takes" on the Case from Various Seats at the Planning Table

From Mark Alton, AEP®,CFP®, ChFC®, CLU®, CAP®, CPWA®, MSFS
Chair, National Association of Estate Planners & Councils Multi-Disciplinary Teaming Committee

- Who should JD work with to develop the business succession or strategic exit plan? It's important to coordinate his succession plan with his financial and estate planning, income and asset protection, cash flow and debt management, tax planning and investment management. Sounds like Ted has initiated the conversation. Is he the right advisor to play a leadership role in this?
- Does he have an explicit process for multi-disciplinary collaboration, and has he articulated it to each and every member on the team? Does everyone know their roles and responsibilities? Are the existing advisors the right ones, i.e., Shirley is a general practitioner?
- 100% of their potential lies ahead. They have more financial, human, intellectual and social or relationship capital today than ever before. How will they express their unique abilities, through both personal and professional channels, on a going forward basis, to do all they are called to do, and to be completely fulfilled?
- Do they have personal Vision and Values Statements for themselves, and their children/grandchildren? How about a Family Vision and Values Statement?
- How do they intend to leverage the financial capital to grow the "real" wealth in the family? Giving is integral to family flourishing. How will they enhance growth and freedom, rather than subsidize entitlement and dependency. A Family Council might be very helpful in this regard.
- Have they considered how much it takes to achieve financial freedom for themselves? What is an appropriate inheritance for each of their children and grandchildren? Why, specifically, $5 MM amount for the charitable gift?
- Are they intentional about their gifting? Are they mindful about the impact the annual gifts are having on their children? Once again, are the gifts enhancing growth and freedom, or cementing entitlement and dependency?
- Have they ever considered consulting with a family systems consultant?
- In looking at the goals, some of the above listed questions have been addressed, at least to some extent.

This is a great case study! It's very comprehensive, and creates a plethora of opportunities for many interesting dialogues. It will really be critical to build the best team possible, with advisors who are creative and have technical competence, but also have a very strong discernment style to unearth all the many possibilities for making a real difference in their lives, in the lives of their individual family members, and in the institutions and causes they care most about. This won't happen naturally. They would need to be very intentional about it, and explicitly express their desire to do so. It would likely involve family meetings and good communication, as well as strong family governance.

Thanks, and have a great rest of your day and weekend!!

Mark

From Jay Cherney, Phd

When I look at the Riley's through my psychology lens, I see a family on the brink of a major transition to a whole new life. This change is a rich opportunity for learning and growth, but it is also potentially an emotional minefield. Family philanthropy and generational wealth transfer can stir up differences and old resentments. To avoid the dangers and emerge as a cohesive and flourishing family requires talking together as a family and inquiring deeply about what matters most.

For decades JD and Mary have been engaged in building an enterprise. This life involves producing profits, using personal strengths to take action, making deals, solving problems. Yet now they are planning a transition to a distinctly different life stage and mindset, on that involves letting go, reflecting on meaning and redefining purpose. The case summary notes the business has become JD's identity, his 'baby' and it's always hard and scary to relinquish control of something that foundational in life.

They now have the freedom to explore how, what and to whom to give—to the next generation and their wider community. This means forging a new identity as a philanthropist, whose primary aims is to nurture the future of his family, his community and the larger world. A plan to give back in ways that the couple or family finds fulfilling involves gaining clarity about their highest purposes, their deepest passions and core values.

The case study states they want to become philanthropists because "it is who they are, they want to set an example for the children and grandchildren, they believe they owe it to the town where they have their business"…

This purpose or mission statement is a great start, but in my mind does not have the specificity and depth to effectively point the family toward the engagements with organizations where they would find most satisfaction and meaning.

My inquiry to dive deep into the client's values and purpose consists of a series of questions that usually branch off in many directions.

- What has been your most uplifting, fulfilling experience in giving?
- What made it so satisfying? What changes in your community would you love to see? How might you want to be involved in these missions personally beyond writing checks? What personal strengths could you use to contribute to the mission of the organizations you want to support?
- How did you come to learn the values that you hold most high?
- Who influenced you most and what experiences helped cement these concerns in your life?

These parents seem to want the whole family to think through the philanthropic mission, so these huge questions would be considered in a series of whole family conversations, where the differences and commonalities of each family member would be clarified. This is a powerful process for developing deeper family cohesion, facilitating continuity of the generations and learning how to live a good life.

I see my involvement in exploring these questions as foundational, as these inquiries impact the planning processes the other kinds of advisors provide.

Appendix B: About The CAP® Program

This case study serves as "the capstone case" in CAP®, drawing on all three CAP® courses: GS 839: Planning for Impact in the Context of Family Wealth, GS 849: Charitable Strategies, and GS 859: Gift Planning in a Nonprofit Context.

The mission of CAP® is to bring us together across our disciplines in common purpose to serve clients and donors as they seek optimal outcomes for themselves, their families, for the charities they love, lead and support, and for our communities.

For more on CAP® please contact Mary Ann Roselle at 610-526-1395.