
Philanthropy – adding value for High Net Worth Australians

By Lina Caneva, Pro Bono Australia

Australian and overseas trends show that those on higher incomes are more likely to make sizable charitable donations than those on lesser incomes and once these High Net Worth Individuals (HNWI) start the philanthropic journey, they want to do it well.

They want to get their approach right for themselves and their families, and to make a difference with the dollars and time they invest. So where do they turn to for suitable advice?

Advisers, who have access to specialist information and networks, and who exist to represent their clients' interests, are well placed to assist. Already, as part of a trend to think more 'holistically' of their services to clients, some professional firms have extended services into this non-traditional area (at least, non-traditional outside the ultra-wealthy segment).

Others are paying more attention to the potential to offer such services.

A new study of high-net-worth Australians' attitudes towards professional services and the scope for providing advice in non-traditional areas has been released by the Australian Centre for Philanthropy and Nonprofit Studies (CPNS) at Queensland University of Technology.

The research, comprising in-depth interviews with 20 individuals with \$5m plus in net assets, asked their perceptions of their needs, how they viewed advisers assisting them with personal and financial matters and potential new services such as with philanthropy.

However, their findings suggest that Australian lawyers are still

out in the cold when it comes to offering philanthropic advice.

The report called *Looking for the 'Value-Add': Private Advice Needs of High-Net-Worth Australians* is by senior research fellows Dr Kym Madden and Dr Wendy Scaife.

They found that many HNWI – or their spouses - were active serving on boards or otherwise active in Not for Profit organisations, and most had a history of community involvement of one sort or another.

Almost all currently made donations to Not for Profit organisations, but the amount they gave was highly variable.

Those who were on a path of increasing their level of giving were generally unaware of the range of tax-effective giving options available to them.

Most expected to become more philanthropically engaged as they moved towards retirement, and some had already begun to be philanthropic as their work commitments reduced.

But according to researcher, Dr Kym Madden, the surprise is in how HNW Australians view their professional advisers and their services.

She found the ideal advisory relationship was seen as a partnership of equals. Long gone is a belief that financial or legal advisers necessarily know what is best for them: instead, trust and credibility needed to be earned.

“Advisers need to deliver, and be perceived to deliver, a clear ‘value-add’ for their HNW clients.

“The HNWI in this study were prepared to pay for advisory services, but they wanted value for

money; better outcomes than they could otherwise achieve,” said Dr Maddern.

“HNWIs want advisers who are responsive to them and their particular needs. Making assumptions about a client’s needs and over-promising were seen as common mistakes made by advisers seeking their business.”

The research found that family-related services including wealth preservation across generations and assistance with ageing and health care, as well as philanthropy, were expected to be useful to them in the future.

Regarding their use of lawyers, specifically, for their personal affairs, HNWIs reported using them sparingly on an as-needed basis.

“They were not necessarily close to them, and mixed views were expressed on how loyal they felt towards them.”

Providing resources for advisors is also important.

“The opportunity to pay more attention to clients’ philanthropic needs has certainly been the driving force behind the publication of *The Australian Directory of Not for Profit Organisations*”, according to publisher and Directory Founder, Karen Mahlab.

“We are now in our 19th year, with the Directory growing in size to now include valuable information about charitable donations and bequests and tax issues, creating a vital link between Not for Profit organisations and private and corporate donors.”

The hard copy directory (inserted into this edition of *Balance*) is

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distributed free of charge to over 56,000 individuals nationally – including 46,000 solicitors, more than 2,000 accountants and financial planners, senior personnel in the top 1,000 companies, wills and bequest specialists, philanthropic trusts and foundations and other major decision-makers and professional bodies.

“This latest research by CPNS reflects issues arising from the rising profile of philanthropy. It means professional advisors are more often being asked by clients about what their philanthropic options may be. Professional advisors too should no longer feel

a cringe about asking about clients philanthropic intentions, but need to ensure they are informed about the options”, said Ms Mahlab.

Wills and Bequests Principal with Williams Winter Solicitors in Melbourne, Kathryn Liddell, says it’s important to have at least a general knowledge of the philanthropic options available to clients even if we cannot provide a full range of philanthropic services.

“We see our role as informing our clients of the options available to them and steering them in the right direction to obtain the correct advice if it is not within our area of expertise.”

“We regularly work with our clients’ accountants and other professional advisers and will refer our clients for expert taxation advice where necessary.”

Looking for the ‘Value-Add’: Private Advice Needs of High-Net-Worth Australians, Working Paper No. CPNS 44 by Kym Madden and Wendy Scaife, is available for free download at www.cpnbus.qut.edu.au. Enquiries to katie.mcdonald@qut.edu.au.

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The Vital Link between Super and Estate Planning

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When it comes to drafting a will, many solicitors are unsure exactly how superannuation fits in. This article looks at how superannuation and estate planning fit together.

1. Who is able to receive the superannuation benefit when a member dies?

Often a large sum is payable from a superannuation fund when a person dies (particularly as many funds contain life insurance policies and also as a result of recent super reforms). However, many practitioners are surprised to know that death benefits from superannuation funds do not by law form part of the deceased’s estate. Death benefits are not automatically distributed according to the deceased person’s will or necessarily in accordance with any nomination they have made to the trustee (subject to narrow exceptions discussed below).

Usually, it is up to the trustee of the superannuation fund to determine to whom the benefit should be paid (although the *Superannuation Industry (Supervision) Act 1993 (Cth)* (‘SISA’) and the Superannuation Industry (Supervision) Regulations 1994 (‘SISR’) restrict this discretion).¹

Generally, death benefits can only be paid from a superannuation fund to:

- the deceased’s spouse (including a defacto);
- the deceased’s child (of any age², including adopted, step children and ex nuptial children);
- a person who was in an interdependency relationship with the deceased (including relationships such as same-sex partnerships and two elderly sisters living together);³
- a person who was financially dependent on the deceased; and/or

• the deceased’s estate, in such proportions as the trustee determines.

Only if the superannuation fund trustee, after making reasonable enquires, has not found either a legal personal representative or a dependant of the deceased, can payment be made to another person.⁴ This rarely arises in practice.

When a deceased has validly nominated a preferred beneficiary before his or her death, the trustee will consider the nomination, but is not bound by it (except in the case of a binding nomination, which is explained in the following section of this article).

It is beyond the scope of this article to examine how trustees exercise their discretion with respect to distribution of death benefits among dependants. However, in the authors’ experience, the following principles generally