


**Sophisticated Gift Planning Strategies:  
How to Get Your Donors to Implement Them**

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**Agenda**

**What Individuals Give**

**Why Individuals Give**

**Why Individuals Don't Give**

**Overcoming Fear and Paralysis**

- Investigate
- Communicate
- Motivate

**Next Steps**

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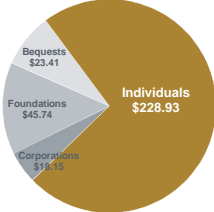
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**What Individuals Give**  
STUDIES ON CHARITABLE GIVING



Source	Amount
Individuals	\$228.93
Foundations	\$45.74
Bequests	\$23.41
Corporations	\$18.15

Largest source of charitable giving is individuals—**\$228.93 billion**

**98.2%** of HNW households give to charity

On average, HNW households **gave 9.1%** of their income to charity

Sources: Giving USA Reports—“Giving in U.S. grows, still lags 2007 peak”(6/20/13); The 2010 Study of High Net Worth Philanthropy: Issues Driving Charitable Activities among Affluent Households,” Center on Philanthropy at Indiana University (Nov. 2010).

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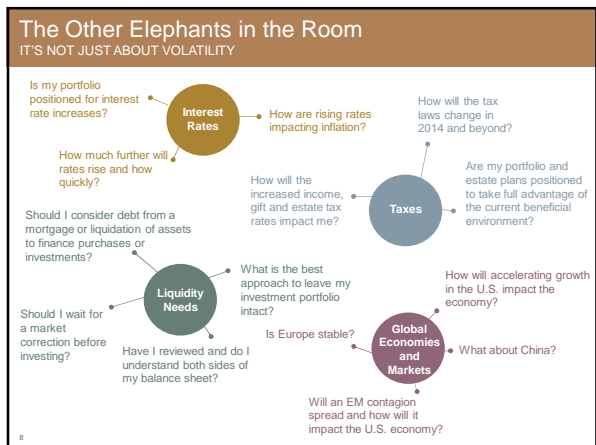
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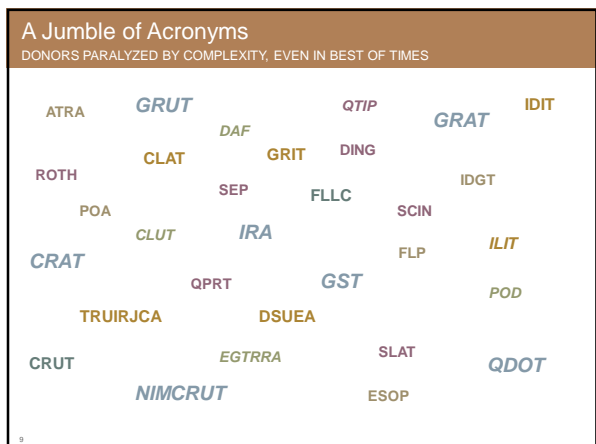
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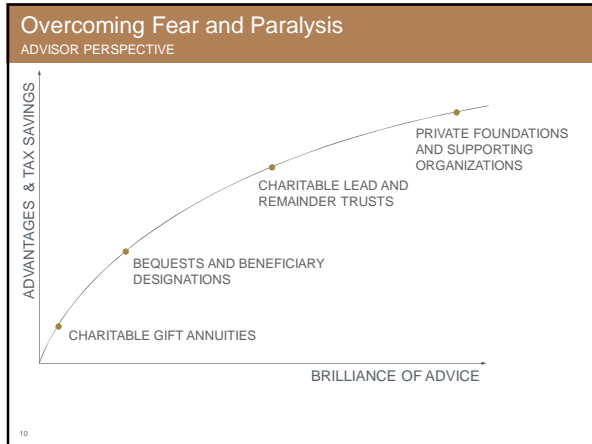
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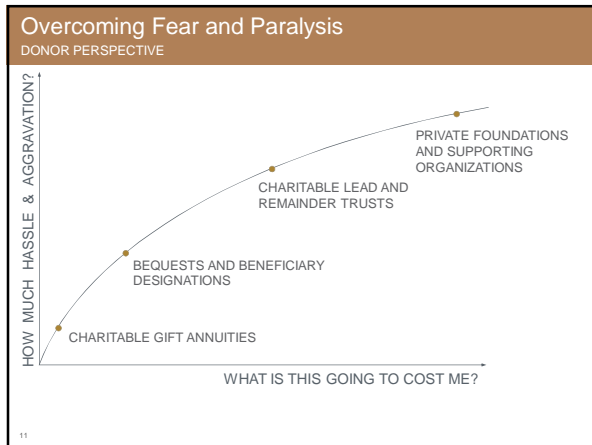
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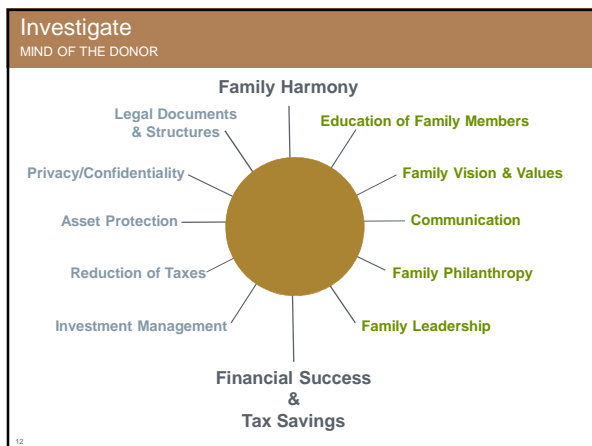
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**Investigate**  
KEY QUESTIONS FOR UNCOVERING EXPLICIT NEEDS

How has uncertainty in the current environment impacted your charitable giving?

In what ways have you documented your values and charitable goals?

How are you providing for charity while accomplishing wealth transfer goals for your loved ones?

How prepared are your children to receive your wealth?

What assets have you considered for charitable giving?

How have you taken advantage of low interest rates?

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**Communicate**  
STORYTELLING AND FLOWCHARTS

**Stories**

- Persuasive, compelling and memorable
- Elicit emotions, which lead to action

**Flowcharts**

- “Left brain” – mathematical, analytical (attorneys and CPAs)
- “Right brain” – visual, artistic (donors)

Sources: Stephens, G.J., Gilbert, L.L., and Hasson, U., “Speaker-listener neural coupling underlies successful communication,” National Academy of Sciences (2010); Schank, R.C., and Abelson, R.P., “Knowledge and memory: The real story,” Advances in Social Cognition (1995); Sperry, R.W., “Hemisphere deconnection and unity in consciousness,” American Psychologist (1968); Nielsen, Jared A., Zielinski, Brandon A., Ferguson, Michael A., Lahnak, Janet E., and Anderson, Jeffrey S., “An Evaluation of the Left-Brain vs. Right-Brain Hypothesis with Resting State Functional Connectivity Magnetic Resonance Imaging,” PLOS ONE (2013).

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**Communicate—Left Brain vs. Right Brain**  
A PICTURE IS WORTH A HUNDRED THOUSAND WORDS

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    graph TD
      Estate[HUSBAND'S ESTATE $15M] --> Wife[WIFE (Separate Property) $5M]
      Estate --> Residuary[Residuary Trust (QTIP) $5M]
      Estate --> GST[GST Trust (QTIP) $1.5M]
      Estate --> Family[Family Trust $2.5M]
      Estate --> Charity[CHARITY $5M]
      Estate --> IRS[IRS $0]
      Family --> Grandchildren[Grandchildren ($30K x 5) $250K]
      Family --> Child1[Child #1 $250K]
      Family --> Child2[Child #2 $250K]
      Family --> Child3[Child #3 $250K]
    
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### Communicate—Left Brain vs. Right Brain

DON'T JUST GIVE FACTS AND FIGURES

#### Charitable Lead Annuity Trust (CLAT)

- An irrevocable trust
- Wealth shifting vehicle allowed by statute that achieves two important objectives:
  - Provides charity an annuity payment for a predetermined time period
  - Appreciation in excess of § 7520 rate passes to beneficiaries when the trust term ends
- Purpose of a CLAT is to benefit charity and make a gift without incurring gift tax
  - The larger the value of the annuity interest (i.e., for charity) the smaller the taxable gift
- Income tax consequences
  - For grantor CLAT, charitable deduction for transfer of the property to the CLAT, but trust's annual income taxable to grantor
  - For non-grantor CLAT, no charitable deduction for transfer, but annual charitable payments deductible from trust's taxable income
- When the trust term ends, the remainder passes to beneficiaries with no additional transfer tax
- Key to success of a CLAT
  - Investment performance must exceed the § 7520 rate

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### Communicate—Left Brain vs. Right Brain

DON'T JUST GIVE FACTS AND FIGURES

Trust Type:	Term
Transfer Date:	3/02/15
§7520 Rate:	1.82%
FMV of Trust:	\$2,000,000.00
Growth of Trust:	7.00%
Percentage Payout:	11.017%
Payment Period:	Annual
Payment Timing:	End
Term:	10
Total Number of Payments:	10
Exhaustion Method:	IRS
Vary Annuity Payments?	No

Annual Payment:	\$220,340.00
Annual Payment:	\$220,340.00
Term Certain Annuity Factor:	9.0773
Payout Frequency Factor:	1.0000
Present Value of Annuity Limited by §7520 Regs:	\$2,000,000.00
Remainder Interest = FMV of Trust less PV of Annuity:	\$0.00

Charitable Deduction for Income Interest: \$2,000,000.00  
 Donor's Deduction as Percentage of Amount Transferred: 100.000%

Year	Beginning Principal	7.00% Growth	Payment	Remainder
1	\$2,000,000.00	\$140,000.00	\$220,340.00	\$1,919,660.00
2	\$1,919,660.00	\$134,376.20	\$220,340.00	\$1,833,696.20
3	\$1,833,696.20	\$128,368.73	\$220,340.00	\$1,741,714.93
4	\$1,741,714.93	\$121,203.05	\$220,340.00	\$1,644,577.98
5	\$1,644,577.98	\$115,030.65	\$220,340.00	\$1,542,268.63
6	\$1,542,268.63	\$107,658.99	\$220,340.00	\$1,426,304.62
7	\$1,426,304.62	\$99,771.32	\$220,340.00	\$1,294,735.94
8	\$1,294,735.94	\$91,331.52	\$220,340.00	\$1,175,727.46
9	\$1,175,727.46	\$82,300.92	\$220,340.00	\$1,037,688.38
10	\$1,037,688.38	\$72,628.19	\$220,340.00	\$889,986.57
Summary:	\$2,000,000.00	\$1,093,386.57	\$2,203,400.00	\$889,986.57

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### Charitable Lead Annuity Trust (CLAT)

Charitable Income Tax Deduction: **\$2 Million**

\$220K Annual Payment for a Term of 10 Years

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    graph LR
      CLIENT[CLIENT] -- "$2 Million" --> CLAT[CLAT]
      CLAT -- "$220K Annual Payment for a Term of 10 Years" --> CHARITY[CHARITY]
      CLAT -- "Assets Remaining in Trust after 10-Year Term Pass to Heirs" --> WTT[WALTH TRANSFER TRUST]
      WTT -- "Remainder Value 7% Growth: $890K 10% Growth: $1.7 Million" --> HEIRS[Heirs]
  
```

**Remainder Value**  
 7% Growth: \$890K  
 10% Growth: \$1.7 Million

18 Assumes grantor CLAT and most favorable IRC § 7520 rate of most recent three months as of Mar. 2015. Rev. Rul. 2015-4.

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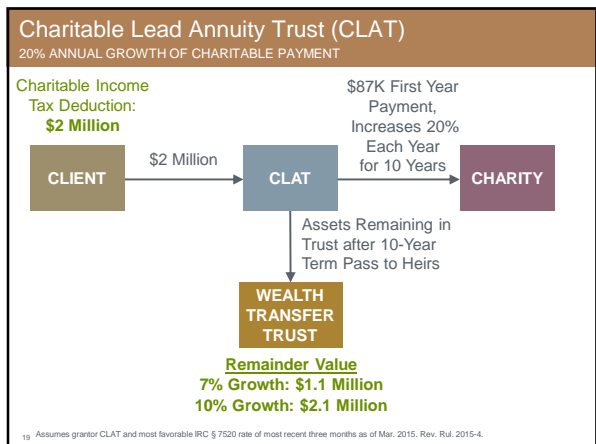
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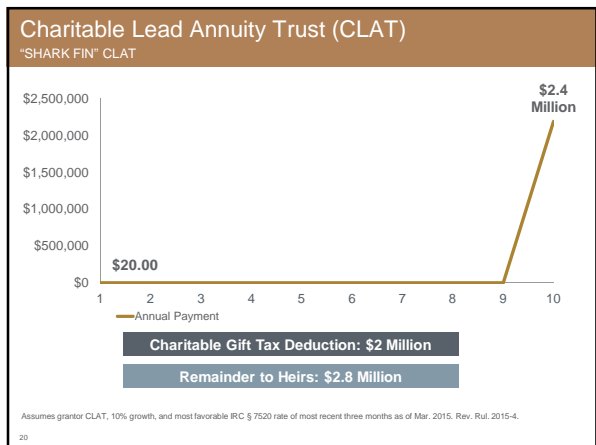
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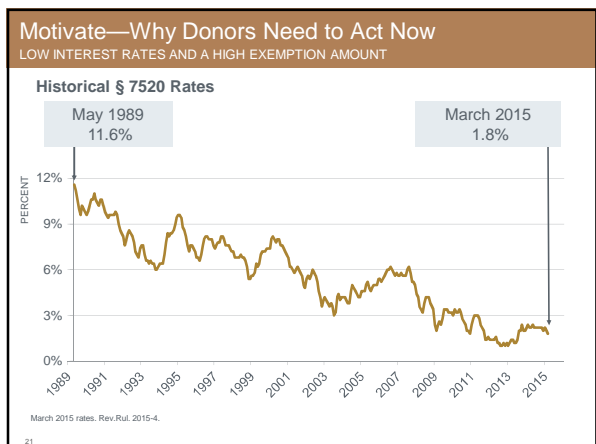
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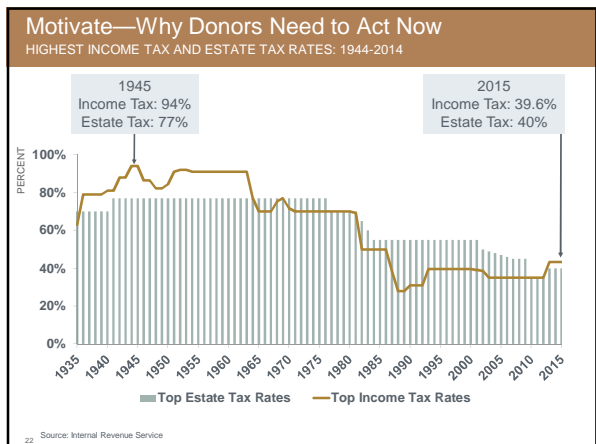
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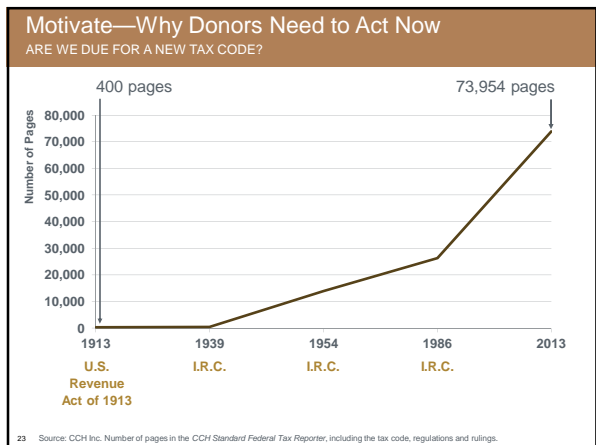
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### Motivate—Why Donors Need to Act Now

THE COST OF PROCRASTINATION

	STATUS QUO	STRATEGIC PLANNING
Estate Value Today	\$25,000,000	\$25,000,000
Estate Planning Strategies/Discount	\$0	(\$10,000,000)
Philanthropic Planning	\$0	(\$4,140,000)
Net Taxable Estate	\$25,000,000	\$10,860,000
<b>Amount Due IRS</b>	<b>(\$5,656,000)</b>	<b>\$0</b>
<b>Total Net to Family/Charity</b>	<b>\$19,334,000</b>	<b>\$25,000,000</b>

COST OF PROCRASTINATION	TAXES
Today in 2015	(\$5,656,000)
Ten Years in 2025	(\$15,315,004)
<b>ADDITIONAL TAXES OWED</b>	<b>(\$9,659,004)</b>

AVG. MONTHLY COST OF ADD'L TAXES	(\$80,492)
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Assumes annual inflation adjustment of 2% to estate tax exemption amount of \$5.43 mm per spouse (in 2015) and a 7.5% growth rate on assets.

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**Motivate—Why Donors Need to Act Now**  
FEAR OF DEATH—LIMITED EXCEPTIONS

**The Three Ds**

- Death (relative or friend)
- Divorce
- Deal

**About to Undergo Surgery**

**About to Leave on a Big Trip**

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**Motivate—Why Donors Need to Act Now**  
DISABILITY AND INCAPACITY FOR PEOPLE 65 AND OLDER

<b>92%</b>	Suffer from heart disease, hypertension, diabetes and/or cancer
<b>10 MM</b>	Need help with eating, dressing, bathing and walking every day
<b>5 MM</b>	Are victims of elder abuse each year

Source: 2014 Statistics from National Council on Aging.

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**Motivate—Why Donors Need to Act Now**  
DISABILITY AND INCAPACITY DURING LIFE

**National Car Accident Statistics**

- Approximately 5.6 million car accidents in the U.S. per year—more than
  - 15,000 per day
  - 10 per minute
  - 33,000 were fatal
  - 2.3 million people were injured (both vehicle occupants and pedestrians)

Source: "Traffic Safety Facts." National Highway Traffic Safety Administration, U.S. Department of Transportation, 2012.

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**Motivate—Why Donors Need to Act Now**  
LAWSUITS AND LIABILITY

**Personal Liability**

“Vicarious” Liability for Children and Grandchildren

**Property and Casualty Insurance**

**Asset Protection Trusts**

**Privacy/Confidentiality**

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**Motivate—Preparing the Family for the Money**  
FAMILY PHILANTHROPY

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graph TD
    GP[GRANDPARENTS] --> S[SON]
    GP --> D[DAUGHTER]
    S --> GC1[GRANDCHILD/ COUSIN #1]
    S --> GC2[GRANDCHILD/ COUSIN #2]
    S --> GC3[GRANDCHILD/ COUSIN #3]
    D --> GC4[GRANDCHILD/ COUSIN #4]
    D --> GC5[GRANDCHILD/ COUSIN #5]
  
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**Grandparents Set Aside \$25k Annually for Charity:**

- \$1K directed by each grandchild
- \$5K directed by son’s children
- \$5K directed by daughter’s children
- \$10K directed by cousin consortium

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**Motivate—Preparing the Family for the Money**  
FAMILY PHILANTHROPY

**Why It Works – Family Members Learn:**

- Communication, negotiation and shared decision making
- Leadership
- Accountability
- Investing and financial literacy
- Responsibility to help others

*These are all skills that are necessary for managing the family’s “wealth.”*

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**Motivate—Secondary Source of Confirmation**

**Spouse**

**Attorneys and Accountants**

**Investment Advisors**

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**Key Findings from Risk Assessments**

1. Missing Asset Classes.....	89%
2. Lack of an Overall Portfolio Plan.....	89%
3. Following, or Fleeing, a Trend Too Late.....	86%
4. Sector Bets Happening without Investor's Knowledge.....	83%
5. Not Enough – or Too Many – Holdings.....	78%
6. Unnecessary or Unknown Portfolio Risk.....	78%
7. Little to No Tax Management.....	75%
8. Hidden Costs.....	68%

Source: BNY Mellon Wealth Management

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**Next Steps**

WHAT CAN YOU DO TO GET DONORS TO ACT?

**Critique the Questions You Regularly Ask Donors**

- Are you uncovering their worries, anxieties and fears?
- Are you addressing their explicit needs?

**Do a Gap Analysis on Your Materials**

- Are you using charts and graphics to illustrate complex ideas?

**Use Compelling Stories to Personalize Planning Concepts**

**Alert Your Donors to the Dangers of Not Acting Now**

- Have you quantified the risks and cost of procrastination?
- Are you collaborating with your donors' other advisors?

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THANK YOU!



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**Biography**

**Justin T. Miller, J.D., LL.M., CFP®**  
National Wealth Strategist

As a national wealth strategist at BNY Mellon, Justin Miller works collaboratively with other advisors to provide comprehensive wealth planning advice to clients and their families. He also is an adjunct professor at Golden Gate University School of Law, an executive committee member of the State Bar of California Taxation Section and the editor-in-chief of the *California Tax Lawyer*. In addition, Mr. Miller is a sought-after speaker on tax, estate planning and family governance topics at conferences throughout the country, including events hosted by the ABA, ACTEC, CalCPA, Golden Gate University, Santa Clara University, Silicon Valley Community Foundation, Stanford University, the State Bar of California, UCLA, Vistage International and YPO. He also has published numerous articles, and has been quoted as an industry expert in a variety of publications, such as *The Wall Street Journal*, the *ABA Journal*, *The Recorder*, the *Daily Journal*, the *Chicago Lawyer* and the *New York Law Journal*.

Prior to joining BNY Mellon, Mr. Miller was a senior vice president and managing director at a large national bank, where he led a wealth management team that was dedicated to addressing the unique financial needs of wealthy families, senior corporate executives and closely-held business owners. Before that, he was an attorney at a major law firm, where he advised high net worth clients regarding tax-efficient estate and business succession planning, trust law and management and asset preservation.

Mr. Miller received a master of laws in taxation and a juris doctor from New York University School of Law and a bachelor's degree, with honors, from the University of California at Berkeley.



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