Preparing your Will or Estate Plan

If you're like most people, getting your personal financial plan started can be a challenge. Planning your estate is probably not the first thing on your list of priorities. But the truth is, estate planning should be a financial priority at almost any stage of life.

DO YOU HAVE A COMPREHENSIVE ESTATE PLAN?

Why is it important to have a plan? To ensure a simple, tax-efficient and organized transfer of your assets to beneficiaries when you're gone. In fact, an estate plan can be essential for organizing your financial affairs and providing for the well-being of your family members. Furthermore, an estate plan should be updated on a regular basis – particularly as your circumstances change throughout your life.

When you start developing your estate plan, there's a lot to think about. You want to live your life to the fullest and, at the same time, ensure your heirs will get the most out of the assets you're setting aside for them. As a starting point, here are some of the basics you'll need to consider.

YOUR WILL

A will is a legally enforceable declaration of how a person wishes his or her property to be distributed after death. If you die without a will (referred to as 'dying intestate'), the province where you reside will step in to administer your estate. In this case, you've essentially forfeited your say on how things are divided and who will be in charge of the process.

A will can be quick and easy to produce and will generally cover the following:

- Naming the executor – the individual(s) or organization chosen to administer the estate
- Naming beneficiaries of the estate (e.g., immediate or extended family, institutions, etc.)
- The distribution of assets within the estate (e.g., investments, real estate, possessions)

Did you know?

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NAMING A BENEFICIARY OUTSIDE THE WILL

Naming a beneficiary other than your estate on your pension plan or RRSP allows your death benefit proceeds to bypass the probate process. This means your beneficiary will receive the proceeds privately[1] and directly while avoiding probate[2] and estate administration fees, which can be significant.

By avoiding your estate, the death benefit proceeds may also avoid claims by creditors of the estate and challenges to the validity of the will, which can delay the distribution of your estate by weeks, months or even years, and can be very costly.

In addition, insurance contracts offer the potential for creditor protection while you are alive if a beneficiary of the family class[3] is named or a beneficiary is named irrevocably.

REDUCING TAXES

We all know the old cliché that the only two certainties in life are death and taxes, but how much do we really know about taxes after death? If you have a will, it is your executor's responsibility upon your death to file a tax return for you. The government will consider you to have sold all your assets immediately before your death and any capital gains or losses will be realized. That may lead to a big tax bill.

Depending on your individual needs, there are strategies you can employ within your estate plan to minimize the amount of taxes due and have assets bypass your estate.

Here are some examples:

- Maximize asset ‘roll-overs’ – transfers to your spouse that defer capital gains.
- Get advice on setting up a trust to ensure your beneficiaries are well looked after.
- Give gifts of cash or possessions while you are still alive.
- Consider charitable donations to create valuable tax benefits.
- Buy life insurance that is paid out to a named beneficiary on a tax-free basis.
- Restructure investments with insurance companies so assets can bypass your estate.

The reassurance of having a strategy in place to preserve the value of your estate for loved ones is something to value. After all, why pay if you don’t have to? Consider working with a financial advisor to determine what exactly is in your estate, and then devise your plan.

[1] In Saskatchewan, jointly held property and insurance policies with a named beneficiary are included on the application for probate despite the fact that these assets do not flow through the estate and are not subject to probate fees.

[2] Probate is not applicable in Quebec. Probate fees vary by province.

[3] In provinces other than Quebec, a family class beneficiary is any of the spouse, child, grandchild or parent of the annuitant. In Quebec, it is any of the spouse, ascendants and descendants of the owner.

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