Portfolioadvisor

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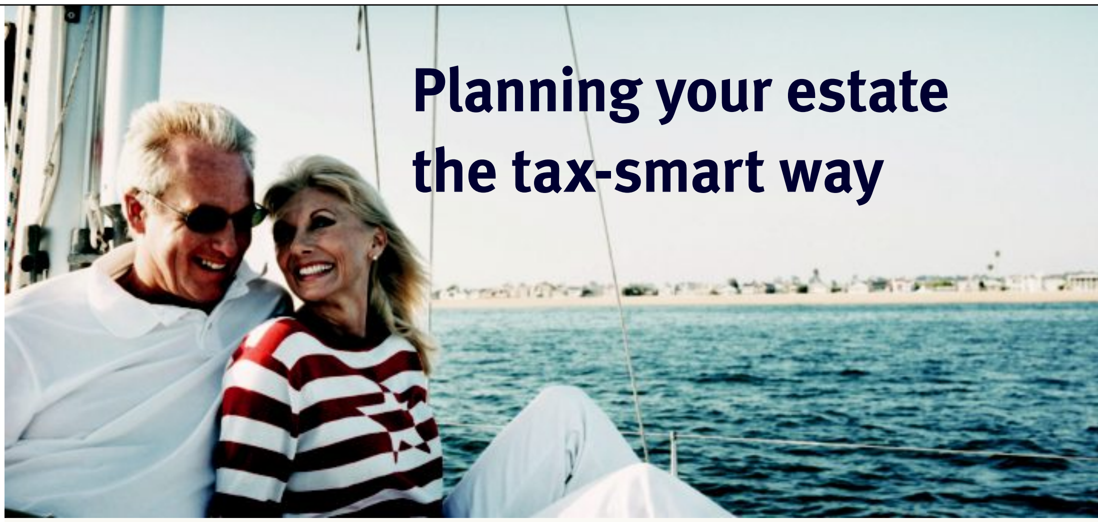

Planning your estate the tax-smart way

Canadian society is on the verge of the largest intergenerational wealth transfer in history. Unfortunately, most Canadians don't have a written estate plan detailing how their wealth will be transferred to the next generation in the most efficient and tax-effective way.

In this special issue of Portfolio Advisor, we discuss how a comprehensive estate plan can help you maximize your legacy to your family – and avoid making the government your largest beneficiary. With all the taxes triggered upon death, this is a real possibility. Potential taxes include income tax due to the deemed disposition rules, provincial probate taxes and even U.S. Estate Tax on your U.S. assets. Fortunately, there are ways to offset the impact of these taxes on your estate – if you plan ahead.

THINK BEYOND YOUR WILL

For many people, estate planning begins and ends with the creation of a Will. While your Will is certainly the foundation of your estate plan, it's just a start – particularly if you have a large or complex estate. A valid Will ensures that your estate is distributed to your beneficiaries according to your wishes. It also names your executor, who is responsible for carrying out your wishes. But there are other important considerations, including: ensuring you have powers of attorney for every adult in your family; assessing how insurance coverage and different ownership structures can potentially reduce the impact of taxes on your estate; and establishing the need for family trusts to provide for your beneficiaries during your lifetime.

Keeping it all in the family ⇨

Keeping it all in the family

Creating a legacy for your family – not the government

Making estate planning a family affair can help ensure an orderly and tax-efficient transfer of your wealth to your beneficiaries. Here are some steps you should consider when creating or updating your estate plan.

START A DIALOGUE WITH YOUR FAMILY

In many respects, this is the most difficult and yet most important aspect of arranging your affairs. Estate planning is a delicate and emotional topic that you or your family may be uncomfortable discussing. Nonetheless, it's a good idea to share your plans with your family.

Some of the issues you may need to discuss include:

- Does your family clearly understand your intentions?
- Do they understand all the reasons for your decisions?
- If you're naming a family member as executor, are they ready to accept the responsibility?
- Have all your assets been taken into account?
- If you own a business, is a succession plan in place?
- Are your beneficiaries ready to manage the assets they may receive?

DISCUSS EXECUTOR DUTIES

Bring up practical matters with your family, such as your choice for executor of your estate. Often, the spouse or eldest child in a family is accorded this honour. Among an executor's numerous duties are arranging the funeral, locating assets, notifying financial institutions, filing tax returns and reviewing and probating the Will if required.

If you decide to name a family member as executor, make sure they understand all their responsibilities – and are comfortable with them. While it certainly is an honour to be named an executor, some family members may feel uncertain about their ability to properly carry out an executor's many duties. There may be several reasons for this. The family member might be located in a different area, perhaps even out of the country. Or you may have a particularly complex estate that could require professional assistance.

PROVIDE FOR FAMILY MEMBERS WHO MAY NEED SUPPORT

You may wish to provide support to certain family members, without giving them direct control over assets, either for a specified time frame or indefinitely. Typically, this is done through a testamentary trust. There are many instances where such a trust may be appropriate, among them providing for minor children until they reach the age of majority, providing for adult children who need to protect assets from creditors, or providing for family members with special needs who may not be capable of managing their own financial affairs.

ADDRESS SECOND MARRIAGE SITUATIONS

Increasingly, estate settlements are complicated by second or subsequent marriages. In these instances, an individual will often want to make sure their new spouse receives a portion of their estate, while the remainder goes to the children from their first marriage.

If this applies to you, you will need to make special provisions in advance to ensure that the children from your first marriage receive their inheritances. Otherwise, your estate could go to your new spouse, who would be free to name new beneficiaries other than the children from your first marriage – if desired.

DON'T OVERLOOK EMOTIONAL CONSIDERATIONS

Once you start talking with family members about your estate, you may discover that certain assets have more emotional significance to some family members than others. You might find out that a family heirloom you intended to give to one family member would be more appreciated by another.

Of course, there is always the potential for conflict. Try to resolve any such potential conflicts ahead of time to minimize stress and confusion during the settlement of your estate. A compromise among beneficiaries may be the solution. Perhaps selling a particular asset is the answer. Whatever the case, make sure all the involved parties clearly understand the reasons for your decisions.

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CONSIDER THE FAMILY BUSINESS

If you have a business, and want to pass it on to family members, there are several important considerations. First and foremost, do any of your family members have the interest and aptitude to run the business? If any family members are interested, consider getting them involved in the business as soon as possible to help them gain the experience and knowledge they need to run the business in the future.

You should also plan ahead to protect the value of your business from potential taxes arising on death. If cash is not readily available when the time comes, your heirs may be faced with the possibility of selling the family business simply to cover taxes. By planning ahead, you can potentially reduce these taxes and provide funding to cover them.

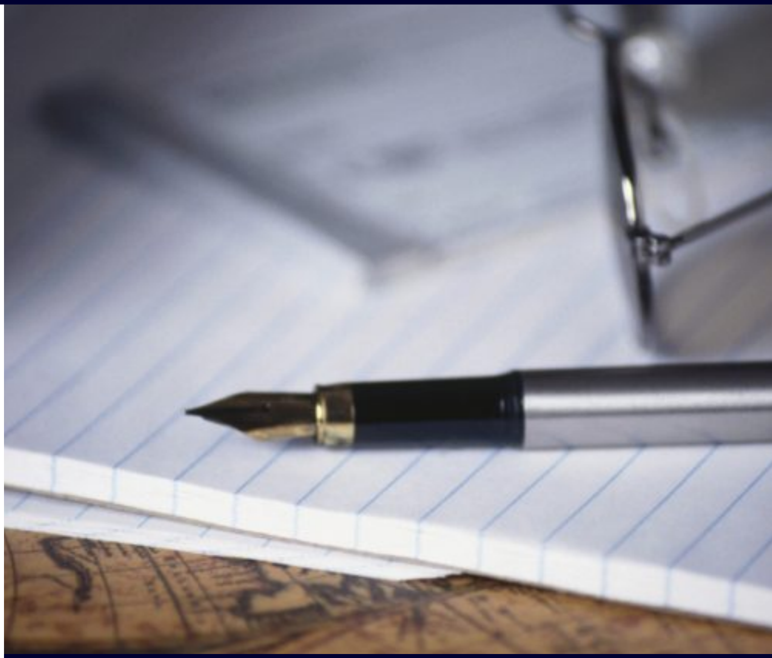
LOOK AT TAX-EFFECTIVE METHODS TO PASS ON YOUR WEALTH

It is very likely that your estate will have a significant tax liability. If you want to minimize these taxes, you have a number of alternatives, including:

- **Gifting.** Simply give your assets away to your heirs prior to death. However, this may trigger a tax liability for you at the time of making the gift.
- **Family trusts.** Also known as living trusts, family trusts allow you to transfer ownership of assets out of your hands and enable your heirs to benefit from them while you retain control. This also has the potential for creating a tax liability for you at the time of transferring assets into the trust.
- **Joint Tenancy With Right Of Survivorship.** "Joint tenancy" enables two or more people to own an asset together (except in Quebec). When one person dies, their ownership passes immediately to the others and does not form part of their estate. When assets are transferred in this way between spouses, there are no immediate tax implications. However, there can be immediate tax issues when transferring assets into joint tenancy if the owners are not spouses.
- **Insurance products and segregated funds.** The insurance and segregated fund benefit paid to a named beneficiary bypasses probate. In addition, insurance benefits are not subject to income tax.

Sometimes, these methods of passing on assets can trigger capital gains taxes. This should be carefully weighed against the potential savings from avoiding probate tax. Working with the right professional advisors can help you make the best decisions to pass on your wealth and implement the various parts of your overall estate plan.

If you need a referral to a qualified professional, we would be happy to provide one.



Keep your estate plan up to date

We recommend following these six steps to create and update your estate plan so it remains relevant to your – and your family's – changing circumstances.

1. Maintain a current inventory of your assets. Having a comprehensive list of your assets and liabilities can greatly expedite the transfer of your wealth. By knowing where everything is, it is easier for your executors to distribute your estate when the time comes.

2. Define your objectives. Once you know what you have, your next consideration is what to do with it. You will have a range of issues to consider, such as deciding on your beneficiaries and whether you want to give to charity.

3. Evaluate your objectives. Once you know what you want to accomplish with your estate assets, the next step is to determine the feasibility of your goals based on your financial situation.

4. Identify the actions you need to take, such as updating your Will or changing legal ownership of certain assets.

5. Consult with the appropriate professional advisors to ensure your plan is properly implemented. Depending on your situation, you may need to consult with several professionals, including an accountant, lawyer or legal advisor, notary, trust officer and your Investment Advisor.

6. Review your plan. Changes in both your personal situation and legislation may require changes to your overall estate plan. You should regularly review your plan to ensure it continues to meet your objectives.

Innovative strategies to protect your wealth

Many people are surprised to learn how significantly taxes can erode the value of an estate.

› Up to half of your registered plan, such a Registered Retirement Savings Plan (RRSP) or Registered Retirement Income Fund (RRIF), may be payable to the government
› Half of any capital gains automatically triggered on death are taxable
› As much as half of your U.S. property is payable to the U.S. government

To meet these tax obligations, the beneficiaries of an estate often have to liquidate the estate's assets. Fortunately, there are strategies utilizing insurance that can protect your wealth, so you can leave your legacy intact.

1. RRSP/RRIF TAX PROTECTION

Often, the top marginal tax rate is applied to all remaining funds in your RRSP or RRIF when they are taken into income in your final Canadian federal and provincial tax return(s), or that of your surviving spouse. On a $300,000 RRIF account, up to almost half will be payable to the federal and provincial governments in taxes, depending on which province you live in. With a life insurance benefit, you can cover these tax obligations.

2. CAPITAL GAINS TAX PROTECTION

Your assets can be transferred at death to your spouse without triggering taxation. But on the death of your spouse, the government considers your assets to have been sold at fair market value – even if they haven't actually been sold. This can trigger taxable capital gains. Taxable assets include shares in private or publicly traded corporations, real estate other than your principal residence and family heirlooms such as art, jewelry and antiques. Tax protection insurance can help your heirs retain these assets and avoid an untimely "fire sale."

3. COVERING YOUR U.S. ESTATE TAX

Did you know that you could have a U.S. tax liability, even if you are a Canadian resident? If you are a Canadian resident who is not a U.S. citizen or green card holder, your heirs may have to pay U.S. Estate Tax on the fair market value of your U.S. assets to the U.S. Internal Revenue Service. Depending on your circumstances, tax protector insurance may be the most cost-effective way to cover this liability.

4. LIVING BENEFITS

"Living benefits" can help protect the value of your estate by covering the costs associated with disability, critical illness or long-term care.

Remember, tax rules are subject to change. Please consult with a professional tax advisor before implementing a strategy.

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