Estate Planning: Top Five Issues to Consider in Your Estate Planning

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Over the next 20 years, approximately $1 trillion[1] will be transferred from one generation to the next. With so much on the line, planning is critical – not only for those whose wealth will be transferred, but also for those inheriting that wealth! No one has to look far to find stories of squandered inheritances and families fighting over estates.

Over the course of this year, we will discuss what we consider to be the *Top Five issues in estate planning*. Here's an introductory overview of the Top Five:

Identifying goals and objectives

For your estate planning to be truly effective, start the process by identifying the goals and objectives you wish to achieve. These might include: transferring your family business to your children or grandchildren; helping your children fund the cost of a university education; helping your children learn to invest wisely; creating a family legacy of charitable giving.

As you can see, the process goes well beyond preparing a list of assets and liabilities and deciding how your estate will be carved up. Ideally, you'll do your estate planning around the individual framework of goals and objectives you've established. This process will not only help you plan the thoughtful and careful transfer of your wealth to your beneficiaries – but can also help your beneficiaries prepare to receive and successfully manage your family wealth.

Over time your goals and priorities may change. We recommend that you review your estate planning every two to three years to evaluate whether it still reflects your planning goals and objectives. Keep your estate planning flexible enough to be adaptable to changing goals and priorities.

Understanding the impact of income taxes and probate fees on your estate

Income taxes can significantly impact the distribution of your estate. For example, if you hold assets with large unrealized gains, your estate may have to liquidate assets in order to fund the income tax liability that will arise on your death. Without advance planning this could result in your beneficiaries receiving significantly less value than you had intended. They might not even receive the assets you had intended! Understanding your estate's tax and probate fee liability enables you to assess planning options to minimize the tax liability and to plan for funding this liability.

Using Wills, testamentary trusts and insurance effectively

Recent changes to both tax legislation and provincial Wills and estates legislation highlight even more the need to review your estate planning on a regular basis. You'll likely hear terms like *multiple Wills*, *graduated rate estate* and *qualified disability trust* thrown around much more frequently. Understanding your options allows you to use these tools much more effectively in structuring your overall estate plan.

The Canadian Inheritance Study, Decima Research, 2006

When used appropriately, life insurance can be a useful tool to incorporate into your estate plan. Your estate can use the insurance proceeds to fund the payment of income taxes and probate fees without the need to liquidate assets. Life insurance can also be useful in cases where you plan to distribute assets that have different values to your beneficiaries. The insurance proceeds can serve to equalize your estate – ensuring that your beneficiaries receive equal value.

Using *inter vivos* trusts effectively

Yes, a large focus of estate planning is on the transfer of assets in the event of your death. But there is estate planning you can do before that! An *inter vivos* trust refers to transfers or gifts made during your lifetime. You can establish a family trust in your tax and estate planning both to manage family wealth and to facilitate its transfer across generations in a tax-efficient manner. As well, high-net-worth individuals often use *alter ego* trusts and *joint partner trusts* (life interest trusts) in their estate planning. These trusts can be useful asset management tools for probate fee planning – and as Will alternatives with respect to the future distribution of assets outside of an estate.

Effective use of charitable gifts and tax planning for charitable giving

By incorporating charitable gifts into your estate plan, you're doing more than helping to support a worthy cause. The resulting donation tax credits can also significantly reduce the tax liability to your estate. Properly structured gifts will maximize both the funding to the chosen cause and the benefits of the donation tax credits. Creating a private foundation or a donor-advised fund with a public charity can create a family legacy that lives on long after the founder has passed. Note that recent changes to tax legislation have highlighted the need to review testamentary gifts. You'll want to ensure they are structured appropriately to obtain the desired tax benefits.

It is never too early to start the estate planning process! We welcome you to join us as we delve into each of the Top Five issues in more depth over the coming months.

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