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THE CM GROUP SPOTLIGHT

Estate Planning- Preparation and Pitfalls

There is always some apprehension with the term estate planning when it is brought up. The idea that only the very wealthy need an estate plan is a very popular misconception. This assumption allows some people to push it aside or decide that they are fine without one. The truth is, everyone can benefit from estate planning and should be considered one of the most important elements of your overall financial wellness. If you have any assets and/or important people in your life, then building an estate plan is essential. Without a plan or even some basic planning, what happens to your assets, and how the people you care about are looked after, may not turn out how you wish.

So where do I start?

One of the first things we recommend is preparing a financial plan, this will not only help build a road map for longer term financial goals, but will force you to list all of your assets in one place. Saying that, if you do not want to go down that road right away (we recommend that you do), you should at least look at preparing a household balance sheet. Listing all of your assets and liabilities is a great starting point. It will add clarity to what you have and can also make preparing a Will that much easier.

Can I do this on my own?

A proper estate plan can get a little overwhelming and expensive without the right advice. You don't have to go it alone. Reaching out to your financial advisor and accountant can help make a plan that works for you and can also help make it more tax efficient, possibly leaving more of your estate to those you care about and less to the government. Of course, having an estate lawyer involved is crucial in preparing a Will it will make sure your plan works legally and that there are no missing details.

Is a Will enough?

Preparing a Will is one of the most important steps in the planning process. Without a valid Will, provincial law will dictate who gets your assets. This may not reflect your actual wishes for your estate distribution.. Saying that, a Will is only one step in the planning process. Other key documents include the Power of Attorney and Personal Directive. These will help ensure that your wish's and assets are protected if you become incapacitated. Most estate lawyers will recommend and help prepare these as part of the Will drafting process. You will also want to let those that will be affected by the Will know they are involved. It is not unheard of for a family member to find out after a death that they are the executor.

What if there are needs that arise that my assets can't cover?

Life insurance can play a significant role in many estate plans. It can provide a pool of funds to pay taxes owing at death and last expenses. It can also create an inheritance that your estate could not provide. Understanding your and your family's needs and reviewing all the options to meet those needs, is an important part of the planning process.

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What are some of the common pitfalls in the estate planning process?

1. Putting everything in joint ownership. Many people put real estate, investment accounts and bank accounts into joint ownership with a family member as a way to avoid fees and allow the property to be accessed immediately rather than waiting for probate to be granted by the courts. There can be many issues with this. For example, if the joint holder is involved in a lawsuit, divorce proceeding or bankruptcy, the property may also be at risk. In some cases the joint account holder may not be the intended beneficiary of the property as stipulated by the Will. This can cause challenges in settling the Estate.

2. Choosing the wrong Executor. Your Executor is responsible for administering your estate and distributing your assets to your beneficiaries. To accomplish this the Executor must be both willing and able to carry out those responsibilities in a timely and efficient manner. They should be someone you trust to handle the responsibilities, live relatively close to you (ideally in the same Province), and of an age that they would reasonably be expected to outlive you. We often pick our friends or contemporaries as executors. That may be fine today, but if you live to a ripe old age your executor (equally ripe!) may not be capable at that time to take on the required responsibilities. Naming children as Executors may also cause problems if there are issues between them - often naming a non-related co-executor may help to deal with disagreements between the children. Think carefully about your choice of Executor, and don't be afraid to consider a corporate Executor who would be independent, capable and experienced in all matters related to estate settlement and distribution.

3. Carefully consider taxation in deciding how your assets will be distributed. We see situations where individuals attempt to divide their estate by property. For example, one child receives the personal residence while another child receives a recreational property. Since taxation on death will be very different on these two types of real estate, the after-tax value of the gifts may differ widely from each other. Estate lawyers can be invaluable in establishing the most appropriate manner to distribute the estate according to your desired outcome.

Who else should know about my estate details besides the Executor?

One of the biggest causes of family disputes that we have seen over the years is caused by the "surprises" and expectations, that arise after the Will is finally presented to everyone. Unfortunately, it usually comes after that person has passed away. Talking to all of the beneficiaries well ahead of time by letting them know your reasoning for your wishes as this can help minimize disputes. It can also allow you time to make changes in the Will if need be. It may also be a great idea to keep a list of key personal information, advisors, important documents (and their locations), accounts, other financial assets and computer passwords, and to put this list in a safe place so it can be easily referenced by your Executor later on.

How often should I update my plan?

As with any financial plan, an estate plan should be reviewed regularly to make sure it still meets your needs. Any major life event could trigger a review of the plan. Whether it be the birth of a new child or grandchild, a marriage or divorce, a change in you assets or even the death of a loved one, any one of these events could affect your original plan.

Always remember that any plan can become outdated very easily, whether it be a life event, a change in the tax law or a change in provincial legislation. Planning is an ongoing process and the CM Group is always here to help with this process.

-The CM Group

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