Your Estate Matters!

Common traps and how to avoid them

TAX AND ESTATE

Although the term “estate” often evokes images of great wealth, any adult who owns investments, real estate, vehicles or personal effects has an estate. To ensure that your estate is passed to loved ones with minimal grief, you need an estate plan that arranges for efficient management and transfer of your assets.

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One of the most common estate planning mistakes is not having a will, which is the most basic element of an estate plan. A recent CIBC poll found that nearly half of respondents had not created a will, many thinking they were too young or didn’t have enough assets. An estate plan is always recommended if you have any assets at all and is essential if you plan to take care of dependants, such as kids or parents.

If you die without a will, crucial aspects of your estate are administered under provincial law. For example, your spouse generally receives a preferential share of your estate and the remainder is divided among your spouse and children. Amounts inherited by minor children are managed by a trustee, but only until the child reaches the age of majority, at which time children receive their full inheritances, even if they cannot responsibly manage the funds. A surviving spouse may need to apply to the court to be named as the estate administrator, or the trustee, of minor children’s inheritances.

Without a properly designed estate plan, you may not be able to minimize your final tax bill or probate fees, where applicable. Taxes could be as much as 50 percent for RRSPs or RRIFs that are not rolled over to eligible beneficiaries, while probate fees, levied on assets that pass under your will, could further reduce the amount of estate available to your beneficiaries.

Fortunately, these pitfalls are easy to avoid with an estate plan. By carefully naming appropriate beneficiaries in your will and by naming beneficiaries directly on your registered plans and insurance policies, you can minimize taxes and probate fees. You can also direct assets into a trust, which could enhance protection and reduce taxes on subsequent income. Finally, you could consider insurance to supplement the estate you leave to provide for your family’s needs.

Another common estate planning mistake is attempting “do-it-yourself” planning. Family, succession and income tax laws are very complex and vary provincially. For example, a new marriage can invalidate your will or certain bequests. Also, if you haven’t provided sufficiently in your will for a dependant (such as a spouse, child, or even a parent), that dependant may be able to challenge your will in court, which will be costly and delay estate administration.

To make matters more complicated, laws can change and failing to understand and plan for the applicable laws in your province can have unintended consequences. You should always obtain legal, tax and financial advice when preparing your estate plan and documents. The cost of getting proper advice for your estate plan is almost always less than the cost of paying unnecessary taxes or fees if you make mistakes.

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