

Estate Planning Presentation to Chrysler Retiree's AGM

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Estate Planning involves

- Planning for the management of your financial affairs and personal care in the event of your incapacity and for the distribution of your property to the people/organizations you choose in a timely and tax-efficient manner when you die.
- Wills and Powers of Attorney
- *Inter vivos* Trusts/Testamentary Trusts
- Life Insurance
- Registration of assets in joint tenancy
- Tax planning
- Business succession planning
- Philanthropic planning

The Estate Planning Process

- Comprehensive analysis of personal financial affairs
- Identification and implementation of succession objectives
- Establishment of the most cost effective and tax-efficient means to preserve and transfer wealth to chosen heirs

Steps i

Estate Planning

- Review assets and record their location
- Avoid intestacy. Prepare a Will.
- Review beneficiary designations of RRSPS, RRIFS, etc.
- Review life insurance needs
- Consider use of *inter vivos* trusts
- Consider re-registration of assets in joint tenancy with spouse
- Prepare powers of attorney for property and personal care
- Preplan funeral arrangements

Planning Tips

- What does your will mean?
- Does your will cover all the “what-ifs”? What if this person doesn’t survive you? What if a minor inherits funds? How long will the assets be held in trust? Size of inheritance does it warrant a trust
- Are the beneficiaries properly named and described?
- Use of “per stirpes” distribution
- What about children born out of wedlock?
- Willingness and suitability of an executor.

Choosing an Executor

- First determine what their responsibilities will be.
- Then decide who best can carry out those responsibilities.
- Consider – expertise, time, family dynamics, distance constraints and potential conflict of interest and age of those you are considering.
- Does your executor live in Ontario?
- Caution of appointing co-executors – do they get along, is there a conflict of interest, etc

Duties of an Executor

- Locate, itemize, and safeguard assets
- Provide management of all assets, including investment portfolios and business interests
- Redirect mail and cancel leases, memberships and subscriptions
- Arrange for probate of Will
- Advertise for creditors

Duties of an Executor (cont'd)

- Collect assets and re-register ownership
- Keep proper estate records
- Locate all beneficiaries
- Prepare and file estate tax returns
- Distribute assets
- ...and on and on!

Why choose a Corporate Executor?

- To relieve burden on family and friends
- Expertise in tax, investment management, accounting and trust law
- Minimize family conflict
- Financial responsibility
- Permanence and availability
- Testamentary trusts may require long-term professional management

Probate Fees

- Probate is the formal confirmation of a Will by the Court
- Probate fees, or estate administration taxes, are payable in all provinces except Quebec
- Calculated as a percentage of the gross value of the assets in the estate (Ontario 1.5%)
- Rates vary from province to province

Strategies for minimizing Probate Fees

- Registration of assets in joint tenancy with right of survivorship with spouse
- Designation of RRSP and RRIF beneficiaries
- Insurance beneficiary designations
- Multiple Wills (some provinces)
- Establishing *inter vivos* trusts
- Giving property to beneficiaries before you die

Potential problems with probate avoidance strategies

- Joint Ownership
- Capital property - by transferring the property into joint name (with someone other than spouse) is a disposition for income tax purposes which may result in capital gains
- Principal Residence- there is a loss of capital gains exemption on the portion owned by joint tenant who is not using the property as principal residence.
- Creditor and spousal claims over assets
- Loss of control over assets- both or all signatures might be required

Potential problems with probate avoidance strategies

- Joint property with 1 child yet you have other children, what is your intention? Do you want this child to get these assets in addition to what he/she is entitled to under the will? Or as part of his/her inheritance?
- Loss of family law protection
- Estate pays taxes on registered plans where persons other than spouse are designated as beneficiaries. This may result in an uneven distribution of the estate.

Potential problems with probate avoidance strategies

- Designation of beneficiaries
- Insurance – minor beneficiaries you need to make sure you provide a suitable trust provision in your will for these funds
- Ensure fairness among beneficiaries when some receive insurance proceeds outside of a will. Consider providing additional benefits under the will to equalize estate distribution

Tax liability on death

- Deemed disposition of all capital property on death triggers capital gains tax liability
- RRSPs and RRIFs taxed as income to estate
- Potential US estate tax liability, even for non-resident, non-citizens, on US situs assets. Consider a qualifying domestic trust for real property

Minimizing capital gains taxes on death

- Principal residence exemption
- CGT exemption for shares in all small business corporations
- CGT exemption for farm property
- Tax-free rollover of assets to spouse or qualifying spousal trust
- Charitable donations

Reducing your estate prior to death

- Consider withdrawing more than the minimum from a RRIF during your lifetime when at a lower tax rate.
- Government considers a RRIF to be liquidated the day prior to death thus it is included in your final year's income. Can lead to taxation at the highest bracket.
- Can borrow against the value of the RRIF now to increase non-registered assets and write off the interest on the loan against the additional RRIF income.

What is a Trust?

- A flexible and tax-efficient method to arrange for specific assets to be held for the benefit of others
- Legal title to property is transferred to a Trustee to be administered for the benefit of persons or institutions named in the trust, deed or will, the 'Beneficiaries'
- Specific instructions are given on how the property is to be administered
- Can be created during one's lifetime – an *inter vivos trust*, or in one's Will to take effect upon death
- a testamentary trust

Uses of Testamentary Trusts

- To ensure proper management of assets in a second marriage situation or for a financially unsophisticated, elderly or disabled spouse, and their ultimate transfer to the next generation – Spousal Trusts
- To create a graduated rate estate to enjoy graduated income tax rates for three years after your death
- To create a qualifying disability trust to support a disabled beneficiary

Advantages of *Inter Vivos* Trusts

- Assets in an *inter vivos* trust do not form part of the Settlor's estate, and are thus not subject to probate fees
- They may, in certain circumstances, provide protection of assets from creditors' claims
- They can provide continuity of management of assets in the event of incapacity

Other considerations in Estate Planning

- Family law rules and dependants' relief claims
- Special needs of beneficiaries
- Marriage, divorce, and separation
- Domestic contracts
- Creditors
- The family cottage
- Business succession

What to do with the cottage?

- Give to children now?
- Cottage trust? Essential to have fund for maintenance and repair
- How to share? Joint tenants, tenants in common
- Options to purchase
- How to equalize inheritance among beneficiaries?

Planning for incapacity

- Who will handle your affairs and make decisions for you if you become unable to?
- Continuing Power of Attorney for Property for financial affairs
- Power of Attorney for Personal Care/ Personal Directive for health and personal care decisions

How Can BMO Private Banking Help?

- Can be appointed as your executor or co-exec.
- Trust company is impartial and has the expertise to administer the estate and any trusts established
- Relieve burden on family and friends
- Minimize family conflict
- Financial responsibility/permanence and availability
- Individual executors may be unable to handle administration ie may die, retire, be ill, move

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BMO Wealth Management
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in Canada by Global Banking
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