NetWorth

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Considering an RESP as part of your estate plan

Registered Education Savings Plans ("RESPs") are popular vehicles chosen by parents, grandparents, and others to help set aside funds for a child's post-secondary education. However, an RESP is an asset too often overlooked by individuals when it comes to estate planning. This article provides an overview of important estate planning considerations for RESP subscribers."

RESPs can remain open for many years - contributions can be made for 31 years after the account is opened, and subscribers (the person(s) opening/contributing to the RESP) have until the end of the thirty-fifth year to use the funds. It is only after 35 years that, unless otherwise specified in the plan contract, the RESP will expire.

Since RESPs can be kept open for such a lengthy period, it is important that RESP subscribers consider their RESPs as part of their estate plan.

What happens if the subscriber dies before the RESP is fully distributed?

Most RESPs are established to assist beneficiaries with funding their post-secondary education. If the RESP still exists after the subscriber's death, it is likely that their intention is for the RESP to continue to be available for that purpose.

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It is important to remember that, unlike a Registered Retirement Savings Plan ("RRSP") or a Tax-Free Savings Account ("TFSA"), the proceeds of an RESP do not pass outside of the subscriber's estate and directly into the hands of a designated beneficiary. It is also important to note that an RESP is not a Trust. Unlike a Trust, the assets of an RESP are not automatically held in trust for the plan's beneficiaries upon the RESP subscriber's death.

Generally, if there is no surviving joint subscriber or alternative plan in place, an RESP contract becomes part of the estate of a deceased subscriber; its value belongs to the residuary beneficiaries of the deceased subscriber's estate. These residuary beneficiaries may not be the same as the beneficiaries of the RESP and, in many cases, their interests may be different. In those instances, after the RESP subscriber dies, the executor may be obliged to collapse the RESP to maximize the size of the net residuary estate and distribute the RESP contributions to the residuary estate beneficiaries. If certain conditions are met, those beneficiaries may also get the after-tax investment growth from the plan contributions and from Canada Education Savings Grants ("CESG").

An RESP is a contract between a subscriber and a promoter (usually a financial institution) and is governed by the terms of that specific contract. For this reason, before making planning decisions regarding the potential death of a subscriber, be sure to check the terms of the RESP contract itself.

Preserving intentions for an RESP as part of an estate plan

There are multiple ways that subscribers can ensure their intentions for an RESP are maintained in case of death, depending on whether the account is set up with a single subscriber or joint subscribers, such as:

- Including mirror RESP clauses in subscriber Wills for joint subscribers;
- Naming a successor subscriber in the Will for single subscribers; or
- Appointing a Testamentary Trust for individual or joint subscribers.

Joint subscribers: If there are joint subscribers (which are generally the parents of the beneficiary), the RESP becomes the property of the surviving subscriber upon the other subscriber's death. When the surviving subscriber dies, the RESP assets become subject to the terms of the last survivor's Will.

As a result, joint subscribers should consider including mirror RESP clauses in their Wills, directing how the RESP is to be dealt with upon the surviving subscriber's death. As with other assets jointly held, in the absence of a contract between the joint subscribers to create "mutual Wills," the RESP becomes the property of the surviving subscriber after the other's death. At this point, the surviving subscriber is free to change the RESP clause in his/her Will, and can choose to collapse the RESP.

Single subscribers: If there is only one subscriber, he/she can name a successor subscriber in their Will to maintain the RESP after their death and outline how contributions are to be funded. If the maximum RESP contribution limit has not been reached, the succeeding subscriber can continue with RESP contributions after the primary subscriber's death.

Testamentary Trusts: Alternatively, single subscribers (or joint subscribers executing mirror or mutual Wills) can appoint a Testamentary Trust as the successor subscriber. A Testamentary Trust is one created under the terms of a Will. In the subscriber's Will, they can direct the executor to use general estate funds to contribute to the RESP before it is transferred to the Testamentary Trust to reach the $50,000 contribution limit. The trustee of the Testamentary Trust can be the executor, or other individual who might otherwise have been appointed as successor trustee. But, unlike a successor subscriber, the trustee is obliged to follow the terms of the Trust regarding administration of the RESP for the beneficiaries.

Incorporating an RESP into your estate plan

As an RESP is the property of the subscriber, upon his or her death it becomes an asset of their estate and subject to the terms of his/her Will. The RESP does not pass outside of the subscriber's estate. As such, it is an asset that must be considered as part of the subscriber's estate planning goals.

If you are the subscriber of an RESP, ask yourself the following question, "Do you want the RESP to continue after your death?" If so, consider whether you prefer to:

- Appoint a successor subscriber;
- Set up a Testamentary Trust; or
- Have all the funds withdrawn and distributed directly to the intended beneficiary (or beneficiaries).

Alternatively, you may consider whether you want to have the funds returned to the estate for the benefit of all estate beneficiaries after your death.

There are several options available to RESP subscribers to ensure that their intentions for the funds are preserved in the case of their death. Before considering your options, begin by reviewing the terms of your RESP contract.

If you have any questions about RESPs, please contact your BMO Nesbitt Burns Investment Advisor.

[1] Quebec law does not recognize the concept of a right of survivorship. The interest of a deceased RESP joint subscriber who lives in Quebec will form part of the estate of that subscriber. In that case, the value of that interest will likely belong to the residuary beneficiaries of the estate unless the joint subscriber appoints a successor subscriber by Will. Joint subscribership should likely be avoided by Quebec residents unless each appoints the other as successor subscriber by Will.

[2] Please note that some RESP contracts permit the designation of a successor subscriber by form.

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Young donors changing the meaning of `giving'

From crowdfunding to volunteering, young donors are changing what `giving' means to them.

There is a subtle but distinguishable difference between charitable giving and philanthropy. Charitable giving is often an immediate one-time cash donation or donation of time, made in response to a specific request or an impulse that is personally and emotionally driven. While philanthropy entails a more complex process that involves a long-term strategic gifting approach that often focuses on issues or causes that reflect an individual's interests and values. However, from a generational standpoint, to millennials (or Gen Yers), those born between 1980-1995, and Generation Z (Gen Zers), born between 1996-2010, `giving' may mean something totally different.

Millennials are fearlessly changing what it means to be philanthropic, and precisely how they give charitably. As Gen Zers mature into their careers and hit their earnings stride, they are likely to do the same with their giving. These new generations of donors aren't content to just give to organizations and let them take the reins. They want a meaningful experience to accompany the giving. Their charitable choices are driven by their own preferences and causes they passionately believe in. Also, their entrepreneurial spirit helps them see new avenues for doing good in the world that older generations may never considered, such as supporting creative fundraising efforts and starting businesses that can help address problems while also turning a profit.

Getting involved

Young consumers are less interested in material goods, and keener on experiences and causes that connect with their own personal experiences. This is evident in their affinity for services like Uber rather than car ownership. Philanthropy is no different. Traditionally, galas and annual fund drives were the opening to get involved with causes. But, millennials aren't content to let organizations do the heavy lifting for causes that are important to them; they want to roll up their sleeves and get to work as well.

Volunteering time helps donors connect with a cause on a different level, giving an "on-the ground" view of what the key issues are and what type of assistance works best. Volunteering can be the first step in a donor's philanthropic journey, and getting involved can lead them to open their wallets (or digital wallets) later on.

If making a financial contribution isn't feasible, volunteering is a good way to make a difference. After all, younger generations are often saddled with substantial student debt. What's more, volunteering also provides compelling social media content. Sharing the experience helps millennials and Gen Zers promote causes they care about online and in real life, potentially prompting their peers to get involved too, either through volunteering or donations.

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Fundraising, not giving

When younger donors do give to charities, how they give may look different too. Because of their penchant for experiences, they may prefer group fundraising (i.e., crowdfunding), which may require a smaller cash outlay from each individual, but combined has a much greater impact.

Group fundraising has a social component, too, allowing them to broadcast their passion for a cause and get friends and loved ones involved. Through the power of social media, fundraising efforts can amplify the message and help to raise greater awareness for a cause, not to mention more money. After all, 30 people pitching in for a cause can bring in significantly more money than one person doing it on their own.

Younger generations are most adoptive to new, innovative ideas and are more likely to be drawn to charities and not-for-profit organizations that do things differently. For example, a few years ago the infamous Ice Bucket Challenge raised money for ALS, while also providing a fun and social experience for participants and donors; beyond just giving money alone. These types of experiences allow younger generations to connect with others who are like-minded. This affinity for sharing experiences has spawned the emergence of crowdfunding sites like Crowdrise or Indiegogo to allow young donors to organize their networks and collect small donations for the causes they collectively support.

Tell me a good story

Changing consumer tastes have pushed the power of storytelling to the fore. It's no longer enough for not-for-profits to ask for money just to support a worthwhile cause. Millennials and Gen Zers want to know why they're being asked to donate. Their passion or desire to help and stay loyal to a cause is fueled by wanting to know or understand why the charitable initiative was started, who it benefits, and real stories of how it has made an impact. It's all part of this generation's emphasis on authenticity. Some not-for-profits deliver by highlighting videos of the people who benefit from donations on their websites or incorporating their stories into their annual reports.

These stories also make for great content to share, further creating a virtuous cycle of giving. Corporations can play a role, too. Baby Boomers may have been suspicious of anyone trying to turn a profit, but millennials and Gen Zers believe that companies—especially mission-driven start-ups—have a role to play in solving environmental, social and corporate governance issues.

Millennials and Generation Zers are deeply passionate about many causes, but they have different expectations about how they'll give their time and money. In the process, their outlook is changing the face of philanthropy and calling for greater involvement from corporations and non-government organizations to do good.

For more information about maximizing your potential to giving charitably, speak with your BMO Nesbitt Burns Investment Advisor.

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