

Estate Planning – Ensure the Security of Your Parents

A growing number of Canadians are joining the ranks of the “Sandwich Generation” – individuals who are trying to balance their work and child rearing responsibilities, and at the same time, providing support to their aging parents.

While your parents may be enjoying their retirement years and in relatively good health, it’s important to ensure they have an estate plan in place to protect their security. Have they shared with you their ability to support themselves financially throughout retirement? Have they made appropriate arrangements in the event they were to become mentally or physically incapacitated – which can often strike without warning? And, do they have up-to-date Wills to oversee the eventual distribution of their estate? Since you and/or your siblings will likely provide support to your parents as they age and be involved in the eventual implementation of their estate plan, engaging them in an estate planning discussion can help you determine if the proper documents and arrangements are in place, and whether their existing plan needs to be revised or updated. Even if your parents have a suitable estate plan, an estate planning discussion will give the whole family a better understanding of the background and reasoning behind your parents’ estate decisions, and can help to avoid any future family conflict and complications.

The Importance of an Estate Planning Conversation

Estate planning conversations are very important and should be about more than financial assets. Difficult situations can arise if parents require care and financial support, become incapacitated or pass away. These circumstances can be cause for acrimonious situations, usually caused by gaps in estate planning and whether a previous estate planning conversation with the family took place.

When a parent passes away, difficulties can occur with the division of valuable financial assets – and issues often get compounded when other items involved have sentimental or emotional value and cannot be divided. As a result, family relationships are sometimes permanently damaged.

According to a BMO Wealth Institute survey conducted by Pollara in May 2013, over half of Canadians identify three major benefits to having an estate planning conversation:

- Avoiding conflict after the death of a loved one
- Making sure everyone fully understands decisions
- Ensuring financial and personal assets are appropriately distributed as per wishes

However, the survey also found that only 64% of adult children over the age of 40 have talked to their parents about their estate plan and legacy goals, and only 22% say it was a detailed conversation.

When approaching the sensitive subject of estate planning with your parents, keep the following suggestions in mind:

- When starting the conversation, explain that you’d like to have a family discussion so that you and your siblings will have a better understanding of your parents’ intentions and be able to carry out their wishes.
- Remain focused on your parents’ concerns throughout the conversation. Perhaps they’re worried that they’ll outlive their resources or may be struggling with finding a fair way of dividing up their estate. Rather than confront these issues, they’d rather not talk about them and avoid them altogether.

- Acknowledge that you fully understand that these are your parents' assets. Advance planning on their part means that they can keep control. Your goal is to help them keep the control – not relinquish it to the government or strangers in a courtroom.
- Explain that by having a conversation with family members and other intended heirs, hurt feelings, conflicts and damaged family relationships can be avoided.

It's not always easy to start the estate planning conversation with your loved ones. That's why the BMO Wealth Institute published the **Estate Planning Family Meeting Guide**. This useful resource is designed to help you get started with setting up a family meeting and provides guidance and ideas to engage your family in an estate planning conversation. For a copy of the guide, please contact your BMO Nesbitt Burns Investment Advisor.

At a minimum, your parents' estate plan should include the following components:

- An up-to-date Will that reflects their wishes and names an appropriate Executor(s).
- A continuing Power of Attorney for Property to manage their finances in the event of mental or physical incapacity.
- A Living Will and Power of Attorney for Personal Care to address medical, home care and end of life decisions.

While this article focuses on estate planning for your parents, these are important elements that should be part of your own estate plan.

Wills

If you die without a Will, you are said to have died intestate and provincial law dictates who will receive the assets of your estate. If you die intestate, there is no executor to administer your estate and someone must apply to the court to get permission to administer your estate.

Having a Will can save your estate money and save the family a lot of anguish and frustration, especially during such an emotional, trying period in everyone's lives. As well, having a Will is the only way you can have control over who will administer your estate, the manner in which your estate will be distributed and to whom.

Chances are that if your Will has not been reviewed with a professional within the last five years, it is time for a review. One potential problem with an old Will is that the executor choice may no longer be appropriate – this is especially true if your parents have named a friend of a similar age. A Will may also need to be changed to accommodate the death of a spouse, new family members, separation or divorce, or a significant increase or decrease in wealth since the old Will was made.

Selecting an Executor

An executor acts as your personal representative after your death. Deciding who will be in charge of your estate after you are gone is an important decision and requires careful thought and consideration. This important role is about more than just administration, and depending on the complexity of your estate, may require your executor to have an understanding of tax, inheritance and family property laws, as well as court procedures. In addition, your executor must deal with family members during a period of grief and cope with conflicts that may arise among beneficiaries during the administration of your estate. While it is often considered an honour to act as executor, it can also be a difficult and complex role.

The demands of being an executor, along with its potential for personal liability, can be overwhelming. Depending on your circumstances, you may want to consider appointing a Corporate Executor, like BMO Trust Company (BMO Trust), to oversee your estate. The professionals at BMO Trust are experienced in estate planning and administration. They work with your BMO Nesbitt Burns Investment Advisor to offer a range of services designed to support the smooth transition of your estate, including: executor services, safekeeping of your Will and trustee services.

Continuing Power of Attorney for Property

A continuing Power of Attorney (often referred to as a POA) for Property authorizes the person you name as your “attorney” to act on your behalf. When planning for incapacity, granting a POA to a spouse, adult child, family member, friend or a corporate trustee, can provide you with peace of mind knowing that in the event of your incapacity to make decisions and manage your financial affairs, there will be a trusted substitute decision maker (attorney) who is authorized to manage your financial affairs on your behalf.

Living Will/Power of Attorney for Personal Care

A Living Will sets out your decisions about your health and medical care needs, and takes effect when you no longer have the mental and physical capacity to communicate your wishes about your care and treatment. A Power of Attorney for Personal Care is similar to a Power of Attorney for Property except the person you name as your attorney is responsible for making decisions about your personal care and health care issues if you are no longer capable of making them yourself.

Together, a Living Will and a Power of Attorney for Personal Care can provide you with the assurance that an individual who understands your wishes, is making personal care decisions on your behalf, based on your preferences.

Your BMO Nesbitt Burns Investment Advisor understands the importance of estate planning and can make the appropriate referral to other key estate professionals for corporate executor services and for assistance with preparing or updating your Wills and Powers of Attorney – and with any other aspects of estate planning.

BMO Financial Group publishes a variety of publications to assist you with your estate planning:

- Estate Planning Family Meeting Guide
- The Why and When of Wills
- The Continuing Power of Attorney for Property
- A Guide to Granting Powers of Attorney
- Trusts for Protection and Tax Savings
- Top 10 Reasons to Consider a Corporate Executor

Contact your BMO Nesbitt Burns Investment Advisor if you would like a copy of any of the above publications.

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EWPG-14-026 | April 2014

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