

# IS IT WISE TO MAKE GIFTS TO ADULT CHILDREN?

Parents often want their grownup children to benefit from their wealth now rather than having to wait for an inheritance. The decision to give to children must be made carefully after considering all the consequences and potential unforeseen events. Consider these factors:

- Loss of control over the funds or property
- Change in your health or financial situation
- Exposure to children's creditors, spouse or heirs
- Effect on children's work ethic or lifestyle
- Undue influence by children to make the gift
- Effect on distribution of estate
- Income and transfer taxes

Below are some answers to the most frequently asked questions about gifts to children:

## ***How can I help my child purchase a home?***

You can avoid some of the above pitfalls by registering a mortgage against the property. The mortgage can be forgiven in your will or offset against the child's inheritance.

***Will the gift be taxable?*** In Canada there is no "gift tax" but there is capital gains tax if the gift consists of capital property with an unrealised capital gain. This will also apply if there is a sale for less than fair market value.

***Will my son-in-law or daughter-in-law have a right to the gift in the event of marriage breakdown?*** Each province in Canada has different rules that offer varying degrees of protection for property received by gift or

inheritance. This protection may apply to a property claim on marriage breakdown, or to a claim against the estate of a spouse. The statutory protection may not be sufficient because there are many exceptions and they are strictly interpreted. In addition, children may move from one province to another making the applicable law uncertain in the future. A trust is sometimes recommended. In addition to protection from claims, it can also prevent the child from voluntarily transferring the property to the spouse.

***Alternate Strategies:*** You may decide to re-examine your intentions once all the known and potential consequences are considered. One very good option is to create a trust so that the property being set aside for the children can still be used for the children's benefit without complete loss of control. In addition, the trust property will be safe from those making a claim against your child. Professional advice is essential if the trust route is chosen to ensure that it provides the appropriate protection for your circumstances.

You should seek independent legal advice if you want to make large gifts to your children. A safe philosophy for gifting to children is "never give away anything that you may need or want back". Remember, once the gift is made, there is no reversing it. Your Investment Advisor can assist you in locating an estate planning specialist.

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