

“Stress Testing” Your Estate Plan in a Time of Crisis

A crisis can be a catalyst for action if you don't have an estate plan – or even a Will.

People often put off estate planning because it's not top of mind, thinking they can take care of it “later.” Events like the COVID-19 pandemic show that things can change in an instant and may continue to change rapidly for an extended period.

Even if you already have an estate plan in place, knowing it is up to date gives you the extra reassurance that your plan will work – even in a time of crisis.

To confirm if your estate plan is up-to-date, consider “stress testing” your plan. A stress test for any estate plan should ask some important questions:

Review of your current Will, Powers of Attorney and beneficiary designations

Has your estate been impacted significantly by the recent downturn in the markets?

Does the distribution of your assets in the Will reflect your current wishes?

Is your executor¹ able and willing to handle the complexities of an estate administration at this time?

Is your executor getting older, or has he or she moved away?

Is your Will consistent with any Domestic Contract, Spousal Agreement, Separation Agreement or Court Order signed by you.

If you have given specific gifts, do these still reflect your wishes, and are they still proportionate with your entire estate?

If you put age restrictions on when your children would receive their inheritance, are these still appropriate? Or, should the assets be held in trust for a longer or shorter period of time?

Is any guardian you named for any minor children still appropriate?

Have you included gifts for your grandchildren (or even great-grandchildren)? If not, do you want to?

Have you given, or are you continuing to provide financial help to one of your children which is out of proportion to the others? Do you intend for it to be considered a gift, or do you want it to be taken into account when they receive their inheritance?

Have you considered contingent beneficiaries and, where appropriate, named them for your registered accounts and life insurance?

Do you have adequate insurance in place?

Do you have an enduring or continuing Power of Attorney² for property that appoints someone to look after your finances if you lose your capacity to make decisions? Is it up to date?

Do you have a Power of Attorney for personal care or a personal directive appointing someone to make health care decisions for you if you are unable to make them yourself?

Have you spoken to your attorney(s) and do they know what your wishes are? Are they still able to act when the time comes?

Additional considerations for business owners when stress testing their estate plans

Do you have a Secondary Will in place to deal with your privately held corporate shares where this may be appropriate, and in those provinces where it is an option?

Will your executor be able to administer your complex estate in a time of crisis?

Do you have the proper signatories in place for your business, whether by Power of Attorney, trustee appointment or other director/officers for your business?

Will your attorney for property be able to step into your shoes and deal with the complexities of your current business structure if you fall ill?

Have you reviewed the governing documents (shareholder, partnership or joint venture agreements) of your business to understand the succession plan? You should also ensure your business partners, if any, understand the succession plan, and that their own estate plan is also up-to-date.

Estate plans should be revisited to ensure that distributions are still as intended, and that no unintended consequences will occur. For example: Child A inherits the business and Child B receives your investments, but the value of the business and investments may now be dramatically different.

Review your business structure and consider removing, winding up or amalgamating any redundant entities (e.g., corporations, partnerships and trusts). It will make the administration of your estate easier if the executors do not have to deal with unnecessary or redundant entities in the corporate structure.

Have you satisfied yourself that taxes, cash flow, company valuations and operations are in order?

Complex tax and estate planning

A review of your estate plan may uncover other tax planning opportunities:

Review whether an estate freeze³ might be appropriate at a reduced cost when valuations are lower, and potentially save tax later, upon death.

Is there an opportunity to introduce a family trust as part of the estate freeze?

If other planning is done during this time, especially for tax reasons, ensure that any new measures put in place are coordinated with your other estate planning documents and strategies to avoid any unintended consequences.

An effective estate plan incorporates the flexibility to address multiple scenarios (such as economic fluctuations or health situations for ourselves or our beneficiaries). It's important to have a plan in place for all “what if” scenarios – whether it is the COVID-19 crisis, other individual health issues or an unexpected accident – so that your wishes and instructions are known across all circumstances.

We're here to help

Your BMO financial professional is here to help you stress test your wealth plan. In addition to estate planning discussion points, your wealth plan may review considerations related to investment planning, tax planning, business succession planning and philanthropy. These plans may take time to design, implement and discuss within your family. Therefore, the more lead time your BMO financial professional is given, the easier the process will be, and the better the outcome. The result will be the comfort and confidence of knowing your affairs are in order.

For more information, please speak with your BMO financial professional.



¹ An Executor is called a Liquidator in Quebec.

² A Power of Attorney is called a Mandate in Quebec which allows the person (Mandatory) to make decisions.

³ An estate freeze is an estate planning technique that can be used to restructure the ownership of your corporation. The objective is to limit the value of your appreciating assets (and the associated future tax and estate liability) and transfer the future growth to your family, to unrelated key employees or any other beneficiaries.

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