# Intergenerational Estate Planning

## What is Intergenerational Estate Planning?

Intergenerational estate planning involves steps an individual may take when planning for the use, preservation and eventual transfer of wealth from one generation to the next and if desired, future generations. Estate planning often involves you, your lawyer, and other professionals such as your financial advisor, life insurance advisor and an accountant. The cornerstone of an effective estate plan typically involves an up-to-date Will, but may also involve more complex planning such as the use of trusts. Communication with family members is also important when implementing an effective estate plan, particularly when planning for subsequent generations. Failing to communicate your estate objective(s) and making assumptions as to what your surviving family members may want could leave your heirs caught off guard, upset, and in some cases, may lead to conflict and contestation of your Will.

Factors that you may need to consider when developing an intergenerational estate plan include, but are not limited to: taxes, providing for future education costs, creditors, health expenses, bankruptcy, guardianship, marital instability and possible divorce. Values and behaviors of subsequent generations may also pose as a concern and may impact your estate planning decisions. It is important to assess your personal circumstances and weigh the pros and cons of the various estate planning opportunities that may be available given your position.

Poor estate planning can, for example, jeopardize government benefits for family members with special needs. Where you are planning to distribute assets to a disabled child or grandchild, you may want to assess the potential impact that future assets (or incomes) may have on the individual's eligibility for certain government funded benefits which may be asset tested, income tested, or both. Where applicable, your financial advisor may propose the use of an RDSP or suggest that you speak with a legal representative regarding the potential implementation of a discretionary trust or other possible solutions.

If you are a business owner, part of your estate planning may include determining what you would like to do with your business upon your death. This may include transferring the business to a family member such as a son or daughter, selling the business to a partner or employee(s) through a buy-out arrangement, or selling shares or assets of the business to a third party (if possible).

**Steps to an effective estate plan**

1. Know what you have (i.e., assets and liabilities)
2. Determine your objectives
3. Discuss possible solutions to meet your objectives
4. Implement your plan
5. Review plan for life event changes

**Potential benefits of estate planning**

- Timely distribution of your assets as you intended
- Potential minimization of income tax and probate fees (where applicable)
- May help reduce potential conflict among family members
- Ensures business continuity for business owners
- Identifies the people chosen to carry out your last wishes and care for your children

**Five common estate planning mistakes:**

1. Failing to draft/update a Will
2. Failing to notify individuals appointed as trustees and beneficiaries
3. Not compiling an inventory of documents (including a Will), assets, liabilities and where these items are located
4. Not having a properly drafted power of attorney for property and personal care
5. Not accounting for potential taxes and probate fees which may occur at death

When it comes to family members taking over a business, emotions may run high. It is important to assess whether family members are interested in taking over the business and that factors such as age and maturity are taken into account. Each situation is different, and any estate plan should be tailored to your specific family needs. A business succession advisor and an accountant may assist with valuing the business and assess opportunities to minimize taxes and coordinate your business succession plan with your estate plan. Often a business owner's most significant asset is their business and to help minimize the potential taxation on the sale of the business, an “estate freeze” may be proposed by an accountant or lawyer.  In general terms, an estate freeze is an estate planning technique to limit or “freeze” the growth of capital property (i.e., shares of your business) held by you during your lifetime; any potential for future growth in the capital property is transferred to your heirs as a result of the estate freeze.

## What about assets which may be distributed outside of an estate?

Intergenerational estate planning may also involve assets in the form of insurance proceeds, or registered plans such as retirement savings plans (RSPs), Tax-Free Savings Accounts (TFSAs), or retirement income funds (RIFs). Where provincial rules allow, these assets may be excluded from the calculation of your estate value for the purposes of provincial probate fees and distributed to appropriate beneficiaries where you have named a beneficiary (other than your estate) on the plan or policy. Where there is an intent to leave these proceeds to children or grandchildren, you may wish to discuss the implications and benefits of naming your children or grandchildren as beneficiaries directly on your insurance policies or registered plans versus having these assets flow through your estate. For example, if these individuals are considered your dependants for income tax purposes, there may be tax deferral options related to registered retirement plans if your executor/liquidator and the beneficiaries jointly elect to complete special transfer(s) under Canadian tax laws. If you wish to set guidelines over your heir's access to their inheritance proceeds, your legal representative may discuss an option of using a trust.

Where permitted, the use of joint ownership for non-registered investment accounts and other properties may also be presented as an estate planning opportunity through the use of Joint Tenancy with Rights of Survivorship (JTWROS). It is important to assess whether this estate planning strategy is appropriate given your family's circumstances and you may wish to speak with your legal representative for additional details. Where there is potential for conflict between your heirs or other individuals seeking dependant's relief, your legal representative may propose alternate opportunities.

## What about property which holds sentimental value?

For families who spend time away at a family vacation property or have family heirlooms that they wish to pass along to subsequent generations, careful planning and consideration may need to be given to these assets to avoid potential tax and estate planning issues that may arise. Possible concerns could be the tax associated with capital gains upon sale of the asset after the death of the owner, or conflict between surviving children or grandchildren regarding access and maintenance costs to real property where applicable. By understanding your personal situation and assessing the possible solutions with your financial advisor, you can be directed to the appropriate professionals to ensure that a plan is put in place that may help alleviate potential concerns.

Building an estate plan that takes into account several generations may involve professionals, such as accountants, lawyers, trustees, life insurance advisors and financial advisors. A combination of some or all of these professionals may assist with the creation of an organized and efficient estate plan.

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