Your Estate and Its Future

You work hard throughout your life to save, invest and build a legacy to pass along to your children and grandchildren. However, taxes and probate fees can take a big bite out of the estate you want to leave to your heirs. By taking action now, your Financial Advisor can help you put strategies in place to minimize the impact of taxes and probate fees while maximizing the legacy you want your beneficiaries to receive.

Many Canadians delay preparing a simple estate plan – let alone one that strategically protects their assets. Fewer than half (46 percent) of the respondents to a January 2007 Ipsos Reid survey had gone so far as to write a Will. Unfortunately, the price of inaction can be high. Capital gains taxes arise on the deemed disposition of assets at death, and registered plan assets that don't have a designated beneficiary (spouse or dependent child or grandchild) will be taxable. Probate fees vary by province, but in Ontario the rate is currently set at $5 per $1,000 of estate assets up to $50,000 and $15 per $1,000 thereafter.

If you haven't already, it may be time to talk to your Advisor about preparing comprehensive estate plans that include strategies which may minimize your taxes and probate fees.

Gift Property Early

One way to lower the value of an estate, where assets will be subject to both taxes and probate fees, is to consider gifts of property now rather than through your estate. For example, gifts to charity are much more tax-effective now since you can donate shares of publicly traded corporations, bonds and mutual funds without incurring a tax hit on capital gains.

The most tax-effective gifts are cash or near-cash investments such as Canada Savings Bonds and Guaranteed Investment Certificates, which won't trigger capital gains tax resulting from the deemed disposition of the assets when they are transferred. Once property is transferred by way of a gift, its value will no longer form part of your estate. You may also want to consider assets that generally attract capital gains but that have not appreciated significantly in value.

Jointly Own Real Estate, Bank Accounts and Investments

When two people jointly own an asset with "right of survivorship," that asset will transfer directly to the second owner when the first owner passes away without passing through the estate, and therefore, avoids being subject to probate fees. Jointly owning a house, bank account or investment account can also make the transfer faster with fewer hassles.

However, there are some factors to consider. In the case of a bank account held jointly with right of survivorship, either account holder can withdraw funds at any time. Also, property held jointly could also be subject to claims by creditors of the joint account holder. Transferring property into joint tenancy means you give up total control over the asset, since consent of all joint tenants is required before it can be sold.

In addition, the transfer of property into joint tenancy with anyone other than your spouse or common law partner may result in a deemed disposition of the asset, resulting in capital gains tax being payable. Joint tenancy is no substitute for a complete estate plan and you should discuss your intentions for your estate plan with your Financial Advisor, who can help you to evaluate your situation carefully when considering gifts or transfers into joint tenancy.

Establish an Estate Freeze

You can lock in the current value of some assets, such as a business or private company shares, through an estate freeze so that future growth is taxed in the hands of your heirs. This may be accomplished by creating a holding company or by transferring property to a trust. Essentially, an estate freeze may allow you to defer taxes on future growth to the next generation – until your heirs pass away. It can significantly reduce the taxes owed by an estate.

Picture Rachel, a client in her mid-60s who holds assets that she believes will

increase significantly in value between now and the time of her death. She can fix the value of these assets through an estate freeze so that future appreciation in value falls outside her estate. Rachel can now calculate with greater accuracy what the income taxes, probate fees and administration expenses will be when she dies, enabling her to plan more effectively to cover these costs.

Establishing an estate freeze is a complex strategy. If you decide to pursue this route, ask your Financial Advisor to refer you to a knowledgeable tax expert.

Plan for the Cottage Transfer

Many affluent Canadians own second properties that won't benefit from the capital gains exemption that applies to primary residences. The transfer of a cottage can be carefully planned to minimize the tax hit.

For example, when the ownership of a cottage property passes to anyone other than a spouse, the transfer is subject to capital gains tax. In many situations today, the value of the property (and the capital gains tax) may be disproportionately higher than other estate assets. Your heirs may be forced to sell the cottage simply to pay taxes. Ensure you keep track of repairs and capital improvements to the cottage which can help in increasing the adjusted cost base of the property and lower the amount of taxes due on death.

Giving the cottage to your children during your lifetime may be another option, because as with an estate freeze, this means that future appreciation will be taxed in the children's hands. You should first determine whether family members want to keep the cottage and will be willing to share the property, its costs and upkeep. Discuss your preferences with your Financial Advisor and ensure that you are ready to give up control of this asset.

Take Advantage of Life Insurance and Segregated Funds

Two product solutions that can help you reduce taxes and probate fees are life insurance and segregated funds. In both cases, the tax-free death benefit is paid directly to beneficiaries, bypassing the estate so it avoids probate fees. Beyond being excellent estate planning tools, segregated funds also provide the potential for future growth with downside protection as long as you hold them to maturity or until you pass away.

With appropriate planning, you can minimize the impact of taxes and probate fees on your estate and your beneficiaries. Talk to your Financial Advisor if you have any questions or concerns, they can help you to determine what are the best options to help protect your assets.

When do U.S. estate taxes apply?

U.S. citizens and people who are considered to be "domiciled" in the U.S. are subject to U.S. estate taxes on all parts of their worldwide estate. Non-resident aliens (including Canadian citizens) who hold U.S. assets may also have to pay U.S. estate tax. Property that may be vulnerable generally includes:

- U.S. real estate
- U.S. tangible property (e.g., cars, boats, jewelry)
- U.S. business assets
- Shares of U.S. corporations
- U.S. mutual funds acquired directly from the U.S. (not Canadian mutual funds that invest in the U.S.)
- U.S. pension plans and annuity amounts (including IRAs and 401k plans)
- Partnership interests if a partnership carries on business or holds any of the types of property listed above

For Canadians, U.S. estate tax will only apply to that portion of their assets deemed to be situated in the United States – if the cumulative value of these assets exceeds a certain threshold, currently US$2 million.