



CESTNICK

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TAX MATTERS

## **A cottage agreement can make sharing a summer home simple**

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Now that we're a couple of months into physical distancing, is anyone getting cabin fever yet? My daughter reminded me of the Muppets song about cabin fever (check it out on YouTube) and claimed that she's officially going insane – like the Muppets in the song. With that proclamation, we decided as a family that if we're going to experience cabin fever, and lose our marbles, we'd rather do it at our actual cabin – our cottage.

I'm quite sure that, despite this pandemic, cottage owners everywhere will eventually be making their way to their summer retreats. Last week, I shared the six questions that every cottage owner needs to answer. I then addressed the first three questions. Today, I want to deal with the fourth: the rules for sharing the cottage.

### **WHAT ARE THE RULES FOR SHARING?**

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I have found that the best way to set out the ground rules for sharing the cottage is to have a Cottage Agreement in place. This will help to avoid misunderstandings, and can set the stage for effectively sharing the vacation property among family members for many years. Your heirs should provide input into what the agreement says, since they'll have to live with it when you're gone. Here are the key issues the agreement should address:

**Using the cottage:** Consider whether everyone will be allowed to use the cottage at the same time, or whether each person will have exclusive use at certain times. One family I know divides the summer into weeks and gives each of the three siblings an equal number of weeks, with two weeks earmarked for all of them to be there together if they want.

Guests at the cottage: Will family members be able to bring guests along during their exclusive weeks? What about the weeks that are shared with each other? Discuss whether guests can be at the cottage alone, or whether family members should always be present. Finally, can family members rent out the cottage during their exclusive weeks, or will the family agree to rent out certain weeks to generate some income to defray costs?

Sharing the costs: How will you divide the costs of upkeep? No problem if each family member has the means and is willing to contribute equally to cover costs. But this is rarely the case. You could tie financial contributions to how frequently each family member uses the cottage, or agree that some may do more labour at the cottage in lieu of financial contributions. Sometimes parents will buy an insurance policy to help fund the costs once they're gone. In any event, it's a good idea, if possible, to create a "reserve fund" to which everyone contributes annually, to fund major repairs when they become necessary.

Paying the bills: It's one thing to agree on how much each family member will contribute, but it's another to decide who will pay the bills. Someone will need to make sure that property taxes, utilities and suppliers are paid.

Physical labour required: Be sure to agree on who will cut the grass, rake the leaves in the fall, clean up the beachfront, put the dock in the water, look after the landscaping, clean out the shed and look after the other tasks that need doing.

General rules of use: While you'd think that families might fight over the big

issues, I've seen more families go at it over things like the mess left behind by a sibling, failing to put gas in the boat after using it all weekend, leaving rotting food in the fridge, or other similar things. Putting your "Rules of Use" in the Cottage Agreement is a good idea.

Succession planning: Will each owner of the cottage have the right to leave his or her share to a spouse (who might remarry later), or should the share go to the kids of the deceased? What will you do if one person wants to sell his or her share? Many agreements will state that each owner gives up the right to force a sale of the property, but provides a right of first refusal to the other owners to buy the share of the departing owner, with some reasonable payment formula. If the others can't afford to buy it, perhaps they can have a veto over who might become a co-owner, or the place can be sold.

Decisions about the cottage: How will you make decisions related to the cottage? A "majority rules" approach can work well for most issues, but major decisions (such as selling, or making major improvements) might require unanimity. Mediation could be required if folks simply can't agree.

In any event, it's a great idea to meet once each year to talk about the cottage and review the Cottage Agreement.

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