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TAX MATTERS

## Discussing your estate plans can avoid hurt and even legal battles

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Toronto lawyer Charles Vance Millar died back in 1926. In his will, he provided that his remaining possessions should be converted to cash and, in the 10th year after his death, the money was to be given to a Toronto mother who gave birth to the most children in the 10 years following his death. The race became known as The Great Stork Derby. In the end, four mothers shared the money, each receiving \$120,000 in 1936 – the equivalent of about \$2,584,000 today.

This provision in Mr. Millar's will was a surprise to everybody. What about your own will and [estate plans](#)? Storing up surprises for your heirs could be a bad thing.

Over the past two weeks, I've shared a framework for your estate planning, called the five "Ds": Define, design, document, discuss and distribute. Today, I want to talk about the fourth "D" – discussing your plan with your heirs.

### The issue

Many people fail to start such a conversation because they don't want their heirs to know how much they'll

inherit. The fear is that this might create a sense of entitlement or cause the kids to become less productive.

On the other hand, children are often afraid to initiate the conversation because they don't want to seem greedy or too curious about what they might receive one day. And the kids have a point: Many parents will think exactly those thoughts if the kids approach them about the topic.

The reality is that parents and children alike need to move past these roadblocks. There are some very important reasons why a conversation about your estate planning is necessary.

### The importance

If you're hoping to avoid confusion, and even legal battles when you're gone, sharing your estate plan with your heirs is important. And if you're like most people, you'll want to know that your heirs will live in harmony with each other and with the decisions you've made after you're gone.

Do you really want to leave this to chance? The answer is to speak with your heirs about your planning.

I've seen more than one situation in which hard feelings, and even psychological damage, have resulted because parents approached their planning in a way that some surviving family members couldn't understand.

It might be that sharing your plans could result in some tweaks to the plan that could make it even better. Some people will think their heirs are not ready to hear about their planning.

Look, apart from some type of incapacity an heir might have, the real issue should not be whether you speak to them, but when you should have the conversation and what you share. It could be that some education or counselling from a trusted adviser could prepare your heirs to hear your plans.

### **The implementation**

Consider these guidelines for sharing your plans with your heirs:

**Find the right time.** I know it can be hard scheduling a formal time to discuss your plans. Instead, consider having the conversation more casually when you happen to be having dinner with your kids. You can even unveil your plan in stages. You might share, for example, what will happen generally when you're gone, but discuss dollar figures another time.

**Talk together or separately.** I think it's often best to have the conversation with your heirs together, but you could have separate discussions. In some cases, separate talks may be best if there are sensitive issues to address (perhaps

you're leaving unequal amounts to each child, for example).

**Be of one mind.** You and your spouse, if you have one, should talk with each other if possible. Make sure you're in agreement about how things will work when you're each gone and be of one mind when speaking to the kids.

**Decide on what you'll share.** In most cases, I suggest it's best that your heirs understand your complete plan, including how much they'll inherit. How much information you share should depend on the maturity of your heirs, and their stage of life. One caution: Many people think their heirs are never ready to hear the complete plan. This is rarely the case. And by the way, giving a copy of your will to your heirs is not the same thing as having a conversation about your planning.

**Explain why.** What principles guided your decision-making when you arrived at your plans? You should share this with your heirs. If they understand the "why," there's less potential for hurt, misunderstandings and battles after you're gone.

**Ask for feedback.** Your heirs should individually have a chance to share their thoughts about your plans. I'm not suggesting you change your mind on issues, but this process will let them know they've been heard, and you'll have had a chance to explain your thinking.

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