



CESTNICK

TAX MATTERS

Plan ahead to save significant tax dollars at your time of passing away

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My great-aunt Joan was a little eccentric. She was an animal lover and had a great sense of humour. Aunt Joan outlived my Uncle Kerry, and when she died, she left a portion of her estate to the local animal shelter on the condition they name its new wing after her pet parrot.

As quirky as she was, she got her estate planning right. There were seven things she and my Uncle Kerry had done which resulted in huge tax savings when she died. Let me share those ideas today.

1. They left things to each other. When my Uncle Kerry passed away, he had left all of his assets to Aunt Joan. And her will left everything to him (had she predeceased him). When you leave assets to your spouse, you're deemed to have disposed of those assets at your adjusted cost base (ACB) when you die, which means no taxes will be owing until the second spouse passes away. You can also leave assets to a spousal trust instead, and you'll get the same tax-free rollover. A spousal trust is a vehicle (which must meet certain conditions) that allows you to leave assets for the benefit of your spouse, but day-to-day control and management of

the assets to the trustees (which can include your spouse).

2. She elected for a transfer at fair market value. When Uncle Kerry died, he had capital losses to use up. So, Aunt Joan as the executor was wise enough to elect to transfer certain assets to herself at fair market value, rather than at ACB. This caused some capital gains to be realized by Uncle Kerry at the time of his death, and she was able to use up his capital losses. As an aside, capital losses can be used to offset any type of income – not just capital gains – in the year of death, and the year prior to death.

3. She gave assets away. Aunt Joan understood that if she owned less at the time of her death, her estate would pay less income tax and probates fees. She didn't need all her assets to meet her daily costs of living, so she gave her children some assets during her lifetime. Although giving assets to your kids is considered a disposition for tax purposes, and could trigger tax on any capital gains, this idea could still make sense if you expect significant growth in those assets in the future. This was the case with Aunt Joan, and she was also in

a lower tax bracket when she made the gifts to her kids than she was in her year of death.

4. She made the most of exemptions. Aunt Joan owned both a home and a cottage. She sold the cottage a year or so before her death because the kids weren't using it much and didn't care to share ownership. When she made the sale, she paid some tax on a capital gain. She could have sheltered the gain from tax using her principal residence exemption but chose to save that exemption for her city home because it had the larger capital gain per year of ownership. She was getting older and knew it wouldn't be long before the exemption would be used on the home at the time of her death. So, the house passed tax-free to the kids.

5. She gave to charity. Aunt Joan was generous. In her will, she left instructions to make donations of specific amounts to her favourite charities. She also had a conversation with her executor before she died to make sure he would donate securities that had appreciated in value rather than cash. This eliminated the capital gain on those securities in addition to providing a donation tax credit. She could have named the specific securities in her will but chose to leave that decision to her executor after speaking with him about her wishes.

6. She asked for multiple tax returns. Aunt Joan asked her executor to file two tax returns for her final year: the usual personal tax return, and a "rights or things" tax return. Our tax law allows multiple returns to be filed for your final year if you have certain types of income. (In her case, her executor made the filing to report dividends declared but not yet paid to her). It's possible that your executor could file up to four different tax returns for your year of death. The advantage? You'll be entitled to certain personal tax credits, such as the basic personal amount, on each of the returns. This effectively multiplies the total credits claimed. You may also benefit from the lower graduated tax rates offered by each tax return.

7. She purchased life insurance. Aunt Joan owed some tax when she passed away, but this was covered by a life insurance policy she had purchased many years ago. Her forward thinking kept her estate whole for the next generation.

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