



CESTNICK

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TAX MATTERS

## Get these three critical D's right as part of your estate planning

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Last weekend my wife, Carolyn, accidentally burned her hand on the stove. About an hour later, I asked her: "How are you feeling now?" Well, that sparked a long response, the likes of which I haven't heard in a while. But I was talking about her hand – not life in general.

You'd think I would know after 28 years of marriage that the right response would have been for me to lend an empathetic ear. But no. Instead, I used a line attributed to former American diplomat Robert McCloskey: "I know that you believe you understand what you think I said, but I'm not sure you realize that what you heard is not what I meant." Yeah – I'm still figuring this marriage thing out.

When it comes to communication, I think Simon Sinek said it best: "Communication is not about speaking what we think. Communication is about ensuring others hear what we mean." And when it comes to your estate planning, documenting then discussing your plans in a clear manner is critical. Today, I want to finish our conversation

about the D's of estate planning: document, discuss and distribute.

### Document

So, what documents should you prepare? There are three key ones. The first is your will. If you die without a will, it's called dying "intestate," and your provincial intestacy laws will apply to determine who gets what – which might not align with your wishes. Further, it will cost more and take longer for your family to administer your estate, and you could end up paying much more in tax without a will.

Next, there are powers of attorney. These can give someone of your choosing the power to make decisions on your financial affairs or health care if you're not able. Most provinces use the term "power of attorney" for the document dealing with your financial affairs, but the one dealing with health care decisions can be called a representation agreement, personal directive, health care directive or something similar, depending on your province. Quebec uses the term "mandate" for both types of directives.

Cestnick: Why many estate plans fail before the will is ever prepared

Finally, prepare a letter of wishes. This letter isn't a legally binding document but can provide your heirs with critical information such as a list of assets or a net-worth statement, desired or prepaid funeral arrangements, personal messages, guidance to trustees or guardians, charitable giving intentions, records of digital assets, explanations as to your intentions, and the location of other info. See my articles from Sept. 17 and 25 last year for more.

## **Discuss**

Don't make the mistake of hiding your estate plans from your heirs. In most situations, the real question isn't whether to talk to them, but when, how and what to share. Simply handing over a copy of your will isn't a substitute for conversation.

Timing matters. If it's tough to find time for a formal meeting, take a more relaxed approach – talk over dinner, on a walk or during time you already spend together. You can also share information in stages. For example, you might talk about plans for a family business separately from what will happen with the cottage or other assets.

Ontario's new pay transparency rules could be a big win for your financial plan

You'll also want to decide whether to speak with heirs together or one-on-one. Group conversations can work well, but separate discussions may be better when sensitive issues are involved, such as unequal inheritances.

If you have a spouse, take a team approach. Be aligned on the plan and

present a consistent message – together, so there's no confusion.

Over time, most heirs should understand your full estate plan, including the amounts involved – although how much you share today should reflect their age, maturity and stage of life.

Finally, be sure to explain the thinking behind your decisions and invite feedback.

## **Distribute**

In distributing your estate to your heirs, you'll need to think about the when, or the timing: specifically, what to give them during your lifetime, and what to defer until after you die.

Then there's the how. Your estate can be distributed in six main ways:

- 1) Through intestacy laws. I've already mentioned that dying without a will is a bad idea. It's an unfortunate outcome – not a plan.
- 2) By naming beneficiaries on your life insurance policies, pensions, registered retirement savings plans, registered retirement income funds and tax-free savings accounts.
- 3) Through joint ownership with right of survivorship, where assets pass automatically to the surviving owners.
- 4) Through trusts created during your life or upon your death. Trusts can help protect assets or support beneficiaries who can't manage an inheritance on their own.
- 5) Partnership or shareholder agreements might govern how business interests are transferred.

6) Through your will. While some people believe that fair doesn't always mean equal, you'd be wise to avoid fully disinheriting a child by leaving them with nothing. Even where relationships are strained, leaving a child with nothing can create hurt that can't be undone after you're gone.

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