



CESTNICK

TAX MATTERS

Why many estate plans fail before the will is ever prepared

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My wife tells the story of a trip to Niagara Falls when she was young. Her family of seven were in such a state of chaos as they piled into their two cars and pulled out of the driveway that they almost left their dawdling six-year-old behind.

When it came to their estate planning, I didn't want my father- and mother-in-law to experience the same chaos and forget something important. So, I helped them focus on the five D's of estate planning – which I introduced three weeks ago. Today, I want to share more about the first two: “Define” and “design” as part of your plan.

Define

Before a lawyer puts pen to paper to draft your will, you should carefully define a few things. Start with what's most important to you. These values should guide the rest of your estate planning.

Let me give you an example. If education is important to you, you might want to help provide for the education of your grandchildren. This could happen

during your lifetime, or after you're gone – or both.

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Maybe generosity describes you well. You can always build philanthropy into your planning. You might want to define which causes are most important to you, and to share these details with your executors if you plan to make donations through your will.

I have a friend who loves outdoor adventure. He's decided to spend some of the kids' inheritance on some trips for the whole family while he's still alive. A couple of years ago they went on an African Safari, and next year they're planning a trip to Antarctica.

If hard work is important to you, you might want to leave the kids enough money to help them pursue their dreams, but not so much that they'll choose to do nothing.

After defining what's most important to you, define who's going to receive your assets. How much will each receive?

When will they receive these assets – during your lifetime, or after you’re gone?

Jot down answers to these questions as part of this process: How much of your money do you want to enjoy while you’re alive? Do you feel an obligation to help your heirs? Do you want your spouse to inherit everything if he or she survives you? Should your kids benefit equally from your estate? Are there specific assets that certain children should receive? Are you concerned about leaving your heirs too much?

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If you’re concerned about leaving the kids too much, the best approach is to define: 1) specific assets you might want to leave each child; 2) how much to leave the kids to help them with emergencies, and 3) how much you’d like to supplement their income and for how long.

Design

Once you’ve defined what’s most important to you, it’s time to turn your attention to what strategies, tactics and tools you’ll use to make the transfer of your estate to your heirs.

Be clear on your objectives. Everyone may have different goals, but some common objectives are these: 1) minimize tax at the time of death; 2) ensure your spouse can maintain their standard of living; (3) provide for proper management of your assets after you’re gone; 4) watch the kids enjoy some of their inheritance today; 5) ensure children who are minors will be looked after; 6) ensure kids from a previous marriage receive an appropriate share of the estate; 7) help your favourite

charities, and; 8) maintain harmony in the family after you’re gone.

Some of your objectives might conflict with others, so you’ll need to set priorities. For example, giving money to your kids during your lifetime to see them enjoy the inheritance might be in direct conflict with ensuring that your spouse has enough to live on after you’re gone.

What tools are available to help accomplish your objectives? Try these on for size: Trusts to hold assets for minors until they reach a certain age; using the principal residence or lifetime capital-gains exemptions to shelter gains on a home, cottage or private company shares; a spousal trust to provide for your spouse after you’re gone that also ensures the assets go to your kids after your spouse’s death; life insurance to provide cash to give to charity, fund a tax bill, or top-up an inheritance so everyone is treated equally.

Make sure you gain clarity through the defining and designing steps in your planning before drafting your will.

Tim Cestnick, FCPA, FCA, CPA(IL), CFP, TEP, is an author, and co-founder and CEO of Our Family Office Inc. He can be reached at tim@ourfamilyoffice.ca