ESTATE PLANNING

Desjardins
Wealth Management

Cooperating in building the future

Although it may sound painful, estate planning won't kill you. It's a way of planning for the future. To maintain control of the assets you've built over the years, protect your loved ones' financial interests, leave them the kind of inheritance you want for them and even reduce their tax burden, it is important to prepare a proper estate plan.

Who will inherit your property?

The cornerstone of estate planning is, of course, the will. This document clearly sets out all elements of an estate plan and indicates how assets are to be distributed to the heirs according to your wishes. In the absence of a will, the estate will be liquidated according to the rules provided for by law.

Under the *Civil Code of Québec*, for the purposes of succession, a spouse is a married or civil union spouse, not a *de facto* (commonlaw) spouse. Since the Civil Code does not recognize common-law spouses in estate matters, they cannot inherit in the absence of a will. This is why it is crucial for unmarried common-law couples to protect their heirs by making a will. Did you know that in the absence of a legal divorce, the former spouse inherits the estate rather than the current spouse, regardless of the number of years the couple had been living together?

In the absence of a will, even if there is a legal spouse, the law stipulates the order in which the heirs inherit. If the deceased has a spouse and descendents (children and grandchildren), the legal surviving spouse is entitled to one-third, and the descendents to the other two-thirds. If there are no descendents, the parents and grandparents and privileged collaterals (brother, sisters, nephews and nieces) inherit in turn. If there are none, the ordinary collaterals (cousins, etc.) inherit.

Deemed disposition of property at fair market value

At death, the deceased is deemed to have sold all assets at fair market value. Thus all potential gains must be declared in the final tax return.

Deemed capital gains on stocks, bonds and mutual funds are taxed at a rate of 50%. The same is true for real estate, except for the deceased's primary residence, which is eligible for a tax exemption.

There are various ways to reduce this tax bill. One of them is life insurance. This is a fundamental estate planning tool because death benefits are not taxable. Life insurance can be used to replace the deceased's income, help pay estate taxes, or facilitate the transmission of specific bequests. An advisor at Desjardins Financial Security[1] can help you analyze your insurance needs to ensure your loved ones are adequately protected.

Transfer of an RRSP of RRIF to a spouse

The entire value of an RRSP or RRIF held by the deceased at death is taxable. However, if these amounts are left to the spouse, they can be rolled into the spouse's own RRSP/RRIF with no immediate tax implications. That way, the money continues to accumulate tax-free, and the spouse pays tax only when the money is withdrawn, so the tax bill is deferred.

IT IS IMPORTANT TO PREPARE A PROPER ESTATE PLAN.

Moreover if real estate is transferred to the spouse, payment of the capital gains tax will be deferred until the spouse decides to sell the property.

Advantages of testamentary trusts

Testamentary trusts are often used to protect inherited capital, such as to maintain the standard of living of the surviving spouse, dependent children or children unable to administer the capital themselves.

There is also a specific tax benefit associated with a trust, namely income splitting. Some income may be taxed

in the testamentary trust rather than under the beneficiary's name because the trust has its own identity. For example, if you transfer an investment portfolio generating an average annual income of $30,000 to a testamentary trust, this amount can be declared as testamentary trust income and will not be included in the beneficiary's taxable income.

The cost of setting up a testamentary trust and preparing annual tax returns might be worthwhile, given the advantages it could offer your loved ones.

Don't forget your foreign assets

Assets held outside the country are of course included in the estate. So it is critical to draw up a will that specifically covers these assets in the language used there and in compliance with local legislation. This will facilitate their transfer and avoid expenses as well as a host of complications.

[1] Employee of Desjardins Financial Security, a financial services firm.

[2] Financial planners act on behalf of Desjardins Financial Services Firm Inc.

[3] All Desjardins Private Management trust services are provided in Quebec by Desjardins Trust Inc., a financial planning firm.

SERVICES PROVIDED BY DESJARDINS

The Desjardins financial planning team[2] offers an estate planning service. The Desjardins Private Management[3] estate planning service is intended for members who need a team of specialists to handle their complex needs.

If you have any questions about estate planning, come see us so we can discuss it further.

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