

Key Considerations for Your Estate Plan

Whether your estate is of large or modest value, an estate plan should be part of your total financial strategy. In its essence, estate planning addresses the establishment or the continuation of a tradition, one that involves the building, preserving and transferring of assets in a tax-efficient manner.

The following are some of the key considerations that should be addressed as part of the estate planning process.

Have a Properly Drafted Will

A Will is the cornerstone of any estate plan, providing for the orderly transfer of assets upon death. Without a Will, your estate is distributed based on governing provincial legislation. You lose the ability to determine to whom and how your assets will pass and also forfeit potentially significant tax and probate planning opportunities. Your Will should be reviewed regularly and updated when personal situations change.

Name an Executor

An executor (liquidator, in Quebec) is an individual or trust company, like Scotiatrust, named in a Will to administer your affairs, carry out your instructions and settle the estate. Executors are legally accountable to the beneficiaries and creditors of the estate.

A corporate executor may be the best choice if your estate involves:

- Ongoing trusts to be managed.
- A private company/family business.
- Significant real estate holdings or assets out of province or out of country.
- Any charitable foundations or trusts to be established and/or administered.
- A stock portfolio to liquidate.
- Beneficiaries resident outside of Canada.
- Beneficiaries with special needs.
- Minor children as beneficiaries.
- Complex family circumstances.

Prepare Powers of Attorney

There are two types of power of attorney (mandate for incapacity, in Quebec) to consider. The first is a Power of Attorney for Property. This is a legal document appointing persons to act on your behalf to manage your property and financial affairs.

The second is a Power of Attorney for Personal Care. This too is a legal document whereby you appoint a person to act on your behalf in matters regarding health care. In British Columbia, management of personal care is granted with a Representation Agreement. Depending on the province, Living Wills and Advanced Directives may also be prepared. Note that only individuals may be appointed to act in respect of personal care matters.

Should you become incapable of managing your affairs, but have not prepared a Power of Attorney and/or Representation Agreement, an application to court is required to give an individual or trust company the power to act on your behalf. There is also the possibility The Public Guardian and Trustee, or equivalent provincial body, may become involved.

Consider If Trusts Are Appropriate

A trust is created by an individual through a Will or Deed. A trustee, whether an individual or a trust company, is appointed and administers the trust. The purpose of a trust is to allow you to transfer the benefit of assets to family members, other valued persons, and/or charities, while maintaining a degree of control over the transferred asset.

Determine if Charitable Gift Planning is a Consideration

For individuals committed to leaving a meaningful legacy, there are a number of charitable giving options that can be considered including establishing a private foundation, charitable remainder trusts, gifts of publicly-listed securities and charitable bequests.

Consider Insurance Strategies

Insurance strategies can also help you achieve the objectives of your estate plan. These strategies include:

Protecting your estate from taxes. Monies can be redirected to an insurance contract to help ensure your beneficiaries enjoy the full value of your estate. The insurance replaces the value of your estate lost in taxes, reducing the overall tax burden on your estate and on your heirs.

Enhancing estate value. Reallocating a portion of your assets into a tax exempt life insurance strategy can enhance the value of your estate. Depositing lump sums once, or over a number of years, means premiums will be withdrawn to cover insurance and policy costs. As your policy grows, your ultimate estate benefit builds too and proceeds are distributed tax-free to your beneficiaries at death.

For business owners, life insurance is also an important tool and can be used as part of a succession plan, providing funds to address tax liabilities, creating tax efficiencies and possibly reducing taxes upon the ultimate transfer of the company.

Developing an estate plan can be complicated and requires expertise in a number of areas. Our professionals across the Scotiabank Group have the knowledge, resources and expertise to help you understand your options and take action.

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