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ESTATEPLANNING

Use this estate planning checklist and…

Eliminate your tax bill

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Did you know most Canadians are unaware of their ultimate tax liabilities?

You and your spouse may have been fortunate enough to accumulate substantial savings in RRSPs, and rolled those RRSPs into a RRIF.

However, did you know that 46 per cent of those hard-earned retirement savings will be taxed after you and your spouse are deceased? In other words, your estate will pay the government $460,000 on $1 million of retirement savings.

Or, you may have accumulated assets in a holding company. Did you know that 32 per cent of those assets in the holding company will be paid as taxes after you and your spouse are gone? Looking at it another way, your estate will pay the government $320,000 on $1 million of investment holdings.

And if you have accumulated capital gains from your investments or business, 23 per cent of those gains will be will be paid as taxes on the death of you and your spouse. Again, your estate will pay the government more than $1 million on $5 million of investment growth.

So, to sum up, the bad news is that a ticking time bomb called taxes is looming in your future. The good news is that all of the taxes described above can be reduced to zero with proper planning that you can begin right now with this checklist.

Getting organized

This is usually the most difficult step in estate planning.

Below is a checklist of questions and considerations to help you identify your estate planning needs. When completed, share this with your accountants, tax specialists, certified financial planners and other professional advisors who can help you implement your plan.

Distribution of assets

✓ Prepare a household balance sheet that includes all your assets, liabilities and insurance policies. This will help get a financial snapshot and determine the amount and type of assets that make up your estate.

✓ Get the help of a qualified professional to help determine the amount of taxes and fees owing on your estate. This part can be quite complicated, especially if you are a U.S. citizen or if you hold certain assets in other jurisdictions inside or outside Canada.

✓ Determine your family's income needs. Your estate should have enough income to meet your financial obligations and desires. Make sure your beneficiaries have sufficient liquidity to service personal debt, provide an income for dependents and allow for necessary savings (e.g., education).

Also, think about whether you want to provide benefits beyond the next generation.

Estate Planning

✓ Make sure there will be adequate liquidity to pay the expected taxes and estate costs and still leave a legacy. Know the impact of passing on certain assets (such as a business or family cottage) to only some of your children.

Consider: Are there enough "other" assets to ensure your

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estate is distributed equally (or fairly)? Can your beneficiaries share certain assets? Would this maintain family harmony?

✓ Have the proper amount (and types) of insurance to meet your specific needs, including income replacement, estate preservation, estate equalization and leaving a legacy.

Are you paying for your insurance personally or with lower taxed corporate or Holdco dollars? It's possible to sell your personal life insurance to your corporation and get tax-free cash out of your company.

✓ Consider how you might distribute your assets among family, friends and charitable organizations. Think about specific items (like jewelry, artwork, etc.) that you may wish to gift to friends, family or others.

✓ If you are interested in making tax-efficient charitable donations upon your death, you could establish charitable remainder trusts, private foundations and donor-advised funds, or make charitable gifts of securities in your estate plan.

✓ Secure professional financial (or other) advice from specific advisors for estate executors, trustees or beneficiaries, if they do not already have the necessary skill sets. Ensure your estate plan provides your executors and trustees with the necessary powers to make your estate plan effective and efficient.

Family considerations

✓ Make special arrangements to protect the inheritance of minor children until they attain responsible ages or reach certain pre-determined milestones, such as attaining a certain level of education. Think about whether you want to keep your children in the family home, or ensure suitable accommodations.

Also consider providing your beneficiaries with ongoing financial support while ensuring additional access to capital while growing up.

✓ Include in your planning any special arrangements required for infirm beneficiaries, including protecting their social assistance or other government support on a long-term or permanent basis.

Consider any other dependents such as physically, mentally or financially dependent parents.

✓ If you are concerned about a future marital breakdown of your children or your surviving spouse, consider the impact it will have on your estate. It may be necessary to protect beneficiaries with poor financial judgment or skills, or those who might otherwise be unable to manage money.

✓ Make the necessary arrangements in a second marriage and/or blended family situation for support of your spouse and ensuring your capital passes to your children from a first marriage.

Ownership, beneficiary designations and trusts

✓ How do you own your assets? For example, if you hold an asset "joint with right of survivorship (JTWROS)" the survivor will inherit it, as opposed to it being distributed according to your will.

✓ Think about probate fees. Did you inadvertently change the ownership of your assets (to "JTWROS") such that your estate plan no longer works as planned? There may be an opportunity to save probate and other estate costs on certain assets that don't require probate – private company shares for example. Does your jurisdiction have rules over type of planning?

✓ Make the appropriate beneficiary designations for registered plans (RRSPs, RPPs, DPSPs, TFSAs) and insurance policies.

✓ Your beneficiaries may benefit from a structure that reduces taxes on income from their inheritance. It's possible to have two wills in place to eliminate probate taxes, for example. Your will can make use of trusts to provide greater control over your estate and protect it from creditors, including situations such as a marital breakdown.

Business Planning

✓ There may be a buy-sell agreement in place, or other shareholder agreements that govern the effective and efficient wind-up or sale of your business. If so, are they structured properly? Is the proper amount and type of insurance in place to provide the business liquidity?

If a key person becomes incapacitated, you should have proper insurance to implement a contingency plan. You may want to give consideration to an estate freeze to minimize your tax liability and allow the future growth to accrue to your children or successors.

✓ If your family carries on your business, make sure there will be enough liquidity to see them through the transition period after your death.

✓ Make sure your business takes advantage of the $10,000 tax-free death benefit or the ability to pay out tax-free dividends through the capital dividend account.

Foreign considerations

✓ If you (or your spouse) has dual citizenship, consider potential U.S. estate tax issues. Also, consider any implications if you are planning to move out of the jurisdiction in the future.

✓ Keep sufficient liquid assets to cover tax liabilities.

✓ Your estate plan should address the potential for double taxation on your estate.

✓ If your executors, trustees or beneficiaries reside in Canada, do they plan to remain here? Address all the legal and tax implications associated with foreign jurisdictions.

Address each part of the plan

When it comes to preparing an effective estate plan, there are many issues and questions to consider.

Each part of the estate plan must be addressed as part of the overall picture to ensure all components are working effectively together to deliver the best results. It is important that you have a discussion with a professional experienced in trust and estate planning. Do it now while the sun is still shining. ❒

Note: The tax rates used in this article are based on current Ontario rates.