

ESTATE PLANNING AND WILLS

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SECTION EP

CROSS-BORDER CHALLENGES

Seek expert advice for global estate planning

Strategies should take into account beneficiaries living abroad or assets located outside Canada

Canadians are people on the go, from those who came here as immigrants with extended families abroad to our highly mobile workforce and snowbirds with vacation properties in warmer climes. For estate-planning purposes, cross-border living presents complications, experts say, with beneficiaries, assets and executors in different jurisdictions – even the province next door – leading to potential technical and tax challenges.

"This issue touches everybody in a cross-border situation," says Dan Derhy, notary and legal counsel at Derhy Trusts & Estates in Montreal, noting that provisions of wills and trusts can even be rendered meaningless in multi-jurisdictional situations. "In cross-border tax and estate planning, it's very important to drop our domestic reflexes. Principles you may think are obvious and clearly expressed documents might not be applicable in another jurisdiction."

Getting proper advice from legal and tax experts who understand global estate issues, especially the relevant rules in such jurisdictions, is critical to implement the right strategies, he says. "You can avoid substantial headaches, costs and delays to avoid messy situations."

He says that terms of a will or trust that seem "crystal clear" in one jurisdiction may not be recognized or produce the desired effect in another. For example, France imposes a hereditary reserve on estates so that individuals do not have the complete power to will their estate in the manner they want. Therefore children, at whatever age or level of competency, automatically get a portion of the proceeds.

A person's residence, where he or she happens to live at the moment, is key for tax purposes, Mr. Derhy says, while domicile, a person's permanent



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Pied-à-terre in Paris? Be aware that the inheritance laws are different in France and need to be taken into account for estate planning purposes. ISTOCKPHOTO.COM

home jurisdiction, is fundamental for estate planning and settlement purposes. He says clients are often surprised to find out that estates are taxed not only in the jurisdiction where the deceased resided but also where the control is, meaning where the executor resides.

Grant Gilmour, an international tax partner at Gilmour Group Chartered Professional Accountants, a Vancouver-area firm that specializes in cross-border tax issues for companies and individuals, says that "the executor should be your next-door neighbour, not someone in another province or country."

Many people realize there are global estate complications only after a person dies and the executor visits the accountant. "Generally, you hope that they have a will in the jurisdiction where they currently live," he says,

and it's best if the executor is there as well, or has been given the flexibility to appoint someone else to be executor.

"The biggest issue I see with global families is that they don't plan to be global, and instead are reactive rather than proactive in estate planning," Mr. Gilmour says. "They end up with a set of circumstances that force them into a tax corner."

This is one of the most important reasons for people to write a will with expert advice and update it as the family situation changes. "People may write a will, but they never actually walk their brain around the issue of 'what would happen if?'" he says. Indeed, he's seen wills prepared by lawyers who aren't aware that the client has cross-border assets and heirs.

"People put more thought into buying a new car than into updating their will," he says, noting that espe-

cially when multiple jurisdictions are involved, "rules change, life circumstances change and the relative value of assets change."

People with beneficiaries in different jurisdictions should consider proactive strategies such as putting in place trusts and directions outside of the will or transferring assets before they die, he suggests. "Bite the bullet and hold a family meeting and ask who wants what, and make sure that it fits into the who-lives-where issue."

Most of the time, strategies can account for situations such as beneficiaries living abroad or assets located elsewhere, adds Mr. Derhy. "There are often interesting solutions," he comments. "It's critical to run the numbers and look at the costs/benefits of the different options. Once you have all the information, you can make a sound decision."

OPINION

Strategies for charitable giving and tax saving



Mark Halpern is a Certified Financial Planner (CFP), Trust and Estate Practitioner (TEP) and CEO of WEALTHinsurance.com®

Many of our most important and cherished institutions like hospitals, universities and museums are made possible through funding by generous and benevolent donors.

The good news is that you don't have to be rich and famous to leave a substantial gift. There are several little known strategies using your government pension benefits to

help the causes you care about while preserving wealth for your family.

Every Canadian has three possible beneficiaries to their estate: family, charity and the tax department. We can only pick two. Most people prefer to minimize what the Canadian Revenue Agency (CRA) gets.

The monthly Canada Plan Pension (CPP) benefit, if not needed for retirement income, can fund a permanent life insurance policy and result in substantial windfalls for your favourite causes and your family.

Take the example of a husband and wife, both 65, who receive monthly CPP benefits of about \$1,100 each, totalling about \$26,000 a year. They live in Ontario and pay tax at the highest marginal tax rate, 54 per cent.

They don't need the CPP money. It only gets taxed, re-invested and then, yes, taxed again.

STRATEGY 1: Life insurance policy owned personally – tax savings later

Use the CPP benefits to pay the premiums on a joint-and-last-to-die life insurance policy for \$1.4-million. The charity, as beneficiary, will receive the insurance payout on the death of the second spouse. Their estate will receive a donation receipt for \$1.4-million and save the family about \$700,000 in taxes.

STRATEGY 2: Life insurance policy owned by charity – tax savings now

As above, create a charitable gift of \$1.4-million using joint-and-last-to-die life insurance, this time with the charity as owner and beneficiary of the policy.

Use the CPP benefit to pay the policy premiums and receive an annual charitable donation receipt of \$26,000, mitigating the tax payable on the pension benefit and replacing it with a large gift.

STRATEGY 3: Donate RRSP/RRIF – by will or beneficiary designation

RRSP/RRIF will be fully taxed as income (at up to 54 per cent in Ontario) on the second death. A \$1-million RRSP/RRIF will only be worth approximately \$460,000 to their family, after taxes.

This strategy designates a charity as beneficiary of the RRSP/RRIF, which mitigates the RRSP/RRIF taxes.

To replace the \$460,000 that would have gone to the family, use some of the CPP benefit to fund a \$500,000 life insurance policy to fund the tax liability, or use the entire CPP benefit to purchase a \$1.4-million joint-and-last-to-die insurance policy, with the family/estate as the beneficiary.

On the second death, the life insurance policy pays out \$1.4-million tax-free to the family. This represents an additional \$940,000 for the family

(compared to \$460,000) plus a large gift to charity.

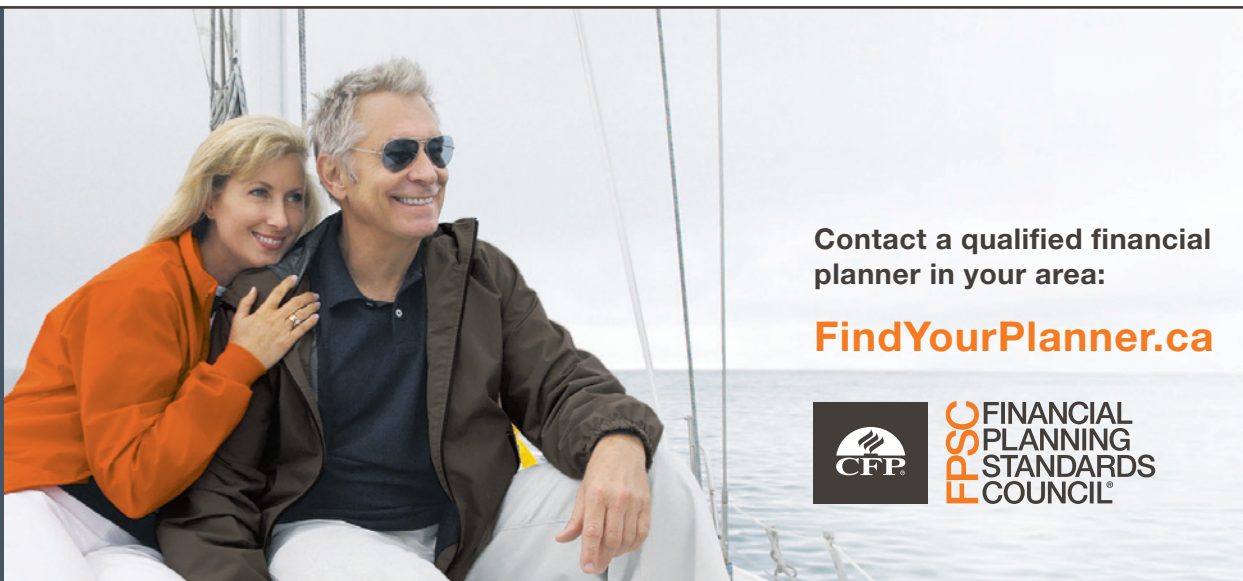
Money allotted in a will may have to go through probate, and there could be additional costs, so don't do this alone. Seek advice from an experienced tax and estate planning professional.

Charitable giving, using your own funds or government benefits, can help the organizations you care about while benefiting your own family.

Aside from financial metrics, you will demonstrate and teach by example the importance of charitable giving. That's real legacy planning for your children and future generations.

YOUR LEGACY, THEIR FUTURE

Make your estate part of
a sound financial plan.



Contact a qualified financial
planner in your area:

FindYourPlanner.ca



ESTATE PLANNING AND WILLS

LEGACY GIVING

Scientists and clinicians collaborate to transform research advances into improvements in care for children

From its original six-bed facility, opened in 1875, Toronto's Hospital for Sick Children (SickKids) has grown to provide care to more than 100,000 children last year. The SickKids Research Institute, founded in 1954, is now the largest hospital-based research facility in Canada and one of the largest in the world.

Together, the hospital and research institute form an integrated environment that allows scientists and clinicians to collaborate, stimulating innovation and rapidly transforming research advances into improvements in care. In 2016 alone, nine SickKids researchers received prestigious awards for their contributions to their field of study.

"None of that would be possible without the support of generous donors," says Kevin Goldthorp, president and chief development officer of SickKids Foundation. Since its launch in 1972, the Foundation has invested just over \$1-billion in research. Along with the strategic investments made by corporate partners and individual donors, this funding has transformed SickKids from a great hospital to one that is renowned throughout the world.

The early capacity growth of the research institute was made possible when J.P. Bickell, the founding owner of the Toronto Maple Leafs, left half of his estate's annual revenue to SickKids, a gift that has since translated into more than \$70-million in total revenue. "The reputation we have worldwide can be traced back to the investments in research made possible by legacy gifts," says Mr. Goldthorp.

While large gifts have tremendous impact, it's important to remember that legacy giving puts "changing the future" within reach for every Canadian, he stresses. "People sometimes think this kind of thing is only for the rich, but it's something you and I can do; our parents and our children can do."

There are many ways to leave a legacy gift, from simply including Sick-

Kids in a will to more complex estate planning strategies that can include gifting registered accounts or insurance policies. "It certainly doesn't have to be millions," he adds. "It can be thousands – we sometimes get cheques for a few hundred dollars. People who are concerned about whether they can sustain themselves can use their assets as needed in their lifetimes and still have the tremendous satisfaction of knowing how whatever they leave behind will be used once they're gone."

This research funding has translated into life-changing advances in the understanding and treatment of cystic fibrosis, brain tumours, early onset Crohn's disease and inflammatory bowel disease, diabetes, cancer, scoliosis and many other diseases affecting children and their families. Research into childhood neurodegenerative diseases is now also having an impact on the future of adults with Alzheimer's, and SickKids is widely recognized as the leading centre for genetic-based autism research in the world.

Legacy gifts to SickKids make possible "the quiet and not-so-quiet advances made each and every week here, advances that result in better care, diagnosing disease more rapidly or definitively because of genetic research, and improvements in procedures. It's a heart surgeon being able to create a 3D printed model of a heart with an anomaly to practise on before conducting that surgery on a child," says Mr. Goldthorp.

Last year, legacy giving generated about \$16-million in funding for research, equipment and facilities, such as operating suite renovations.

For medical doctors who are also conducting research, coming to SickKids means being able to go to their lab and then cross the bridge to see patients – which means that leading clinician researchers from around the world are attracted to SickKids, he notes.

"That results in better care for our patients, and it wouldn't be possible without this kind of support and



Dr. Ronald Cohn in the lab at SickKids where he and his team research the potential of CRISPR/Cas9, a new genome editing technology. SUPPLIED

"Legacy giving puts 'changing the future' within reach for every Canadian."

Kevin Goldthorp is president and chief development officer of SickKids Foundation

research investment – along with physical facilities for our Research Institute that are the best in North America right now, by far," adds Mr. Goldthorp.

Dr. Ronald Cohn, the hospital's chief of pediatrics, was recruited to SickKids from the U.S. in 2012. Dr. Cohn is one of the world's leading geneticists and is at the forefront of a field he refers to as "genetic surgery."

He is leading an investigation into the potential of CRISPR/Cas9, new genome editing technology designed to edit flawed genetic material and regenerate the proper gene sequence to restore health.

"He's a surgeon of the future," says Mr. Goldthorp. "When it comes to genetic disorders, we'll use this type of technology to operate without a knife."

POTENTIAL

With a legacy gift, lifelong teachers continue to invest in the future

Joan and Gordon Stevenson first visited The Hospital for Sick Children (SickKids) in Toronto after experiencing a terrifying new-parent moment: their four-month-old son David managed to roll off the examining table at their pediatrician's office. Although the baby seemed fine, the pediatrician insisted he be taken to SickKids for observation.

Dr. Bernard Laski, a senior physician at SickKids at the time, was "absolutely amazing," says Mrs. Stevenson. "When unusual new baby problems came up, Dr. Laski was there when needed at all times. I spoke to him personally, any time, with any problem."

Voicing a thought shared by probably every young parent ever, she says, "I knew nothing about babies. Dr. Laski was there to explain and comfort."

"Together, we made a good team," she says.

Her light-hearted claim is in fact quite an understatement. Today, David is the vice president of information and knowledge at Export Development Canada, teaching Canadian businesses how to increase their exports into markets abroad. His brother Mark followed the example of his parents and has devoted his life to teaching

"When we look at children, our own and others, we are looking at the doctors, lawyers, teachers and leaders of the future. They can only realize their potential if they are expertly diagnosed and properly nurtured."

Gordon Stevenson is an advocate for SickKids Foundation



Joan and Gordon Stevenson encourage everyone to think of themselves as potential donors to SickKids Foundation. SUPPLIED

and education, equipping more generations for future success.

"When we look at children, our own and others, we are looking at the

doctors, lawyers, teachers and leaders of the future," says Mr. Stevenson.

"They can only realize their potential," he adds, "if they are expertly

diagnosed and properly nurtured."

While it was Dr. Laski who first inspired the Stevensons' commitment to SickKids, it is their experience as teachers and parents that convinced them to leave a legacy gift in their will to help further the hospital's work.

In addition to their own planned gifts, the Stevensons are passionate advocates for SickKids Foundation.

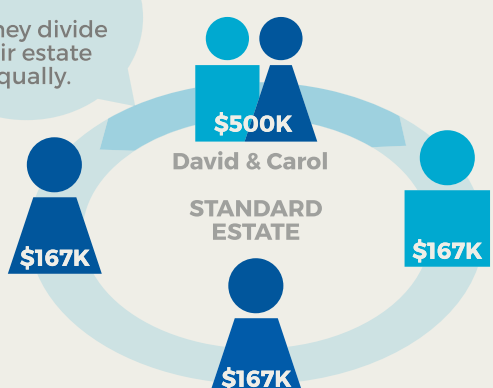
"Children are the future of our society," says Mrs. Stevenson. "If you educate and look after a child in every way, everyone benefits. We want to see the work of SickKids, with the commitment, dedication and the love they have for all these children – not only with their illness, but for the whole child – to continue and get better and better. With world-class research, not only are you feeling the benefit in the present but you're helping to ensure that our country and society is going to be the best it can be."

The Stevensons stress that the research and services of SickKids can only be maintained with the support of ordinary Canadians, the multitudes of middle-class people who may not think of themselves as significant donors. "You don't have to be multi-millionaires to contribute in this way," says Mr. Stevenson. "We are not. If many people make smaller contributions, these add up and provide great possibilities for all of us in Canada and the world."

BY THE NUMBERS

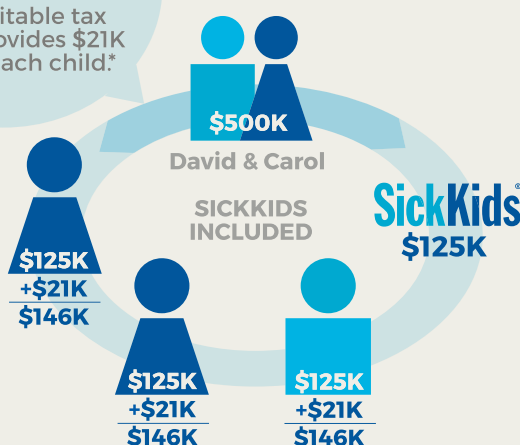
A legacy that benefits you, your family – and SickKids

David & Carol love their 3 kids. So they divide their estate equally.



David & Carol love SickKids, too. So they added SickKids to their legacy.

The charitable tax receipt provides \$21K back to each child.*



*This illustration should not be construed as tax or legal advice. Please consult your financial and legal advisers to discuss tax-effective ways to make a charity part of your estate plan.



MAKE YOUR WILL A DOCUMENT THAT BEGINS A LIFE.

That's what a will can be. A will that leaves a gift to SickKids is an opportunity to create a future – one where a child with the most challenging health issues is successfully treated, and goes on to live a long, healthy life. If you want children to go through cancer treatment without long term side-effects, or have their heart defects healed by their own stem cells, we can show you how to leave a legacy to make that future happen. Make your will one that begins many lives. Visit planforsickkids.com or call 416-813-8271.

