

Death and Taxes—You Can't Escape But You Can Minimize Impact!

The goal of estate planning is to ensure that your testamentary wishes are carried out with a minimum of taxes and probate fees being paid by your estate.

BY TED PEASE

In this day and age it is hard to believe that over 50% of adults in Canada do not have a Will and even fewer business owners have a formal business succession plan in place. You owe it to your loved ones to start the process NOW!

Failure to properly plan your estate can result in dire consequences, which can range from your estate paying far more tax than necessary, your business or other assets being sold at fire sale prices to pay taxes, and beneficiaries being left destitute or disgruntled at not getting their "fair share".

For many the process is so complex and overwhelming that they procrastinate for years and some, sadly, never do organize their affairs and the family pays the price. I have seen this happen

many times with couples in second marriages, and with those with family businesses, high net worth, dysfunctional families and special needs children. These are examples of the many situations that demand special expertise in estate planning

is a specialist in the required areas of law. This is because, in my experience, in order not to lose a client many lawyers will say that he or she does Wills, even if their area of specialty is really in another area such as real estate, corporate or

and my favorite, Trusts.

In my opinion one of the most underutilized tools are inter vivos and testamentary trusts. One example of an inter vivos trust is a Family Trust, which can be used to hold investments or shares of a family business corporation with a view to income splitting by sprinkling income to family members in lower tax brackets.

Examples of testamentary trusts include spousal trusts to take care of your spouse during life while ensuring that the remaining capital goes to your children on the spouse's passing and not to a new spouse, trusts for minors and dependent or spendthrift children and Henson Trusts for disabled children. It should be noted that testamentary trusts enjoy graduated tax rates thus making them very advantageous tools to use in your estate plan.

Estate and business succession planning is a complex process that may take months to properly complete, but it is well worth the effort in order to protect your loved ones. Do your homework and ensure that you hire a lawyer that specializes in Estates and Trusts Law – and get started! Procrastinate no longer! **■**

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in order to see the job through to successful completion.

The first step is to retain a lawyer that specializes in Wills, Estate and Trusts. However it may not be easy to be certain that a lawyer

litigation. It is recommended that you speak to your financial advisor for a referral of a local specialist or you can review the Law Society of Upper Canada's list of Certified Specialists in Estates and Trusts Law on its directory of certified specialists on its website: www.lsuc.on.ca. If your affairs are particularly complex or involve a family business it is recommended that you also retain the services of a tax accountant. Your estate planning lawyer will work closely with the accountant and should be able to make a referral if you need one.

The goal of estate planning is to ensure that your testamentary wishes are carried out with a minimum of taxes and probate fees being paid by your estate. The specialist has many tools to choose from to achieve your goals, including Wills, Powers of Attorney

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