Estate Planning in Retirement

<ADVISOR INFO>

Disclaimer

- This presentation is not meant to act as legal or tax advice. We all have unique financial and personal situations that require one-on-one attention and tailored solutions. You should always consult with a financial professional and lawyer before making decisions that could impact your estate plan.

Introduction

- A common misconception is that estate planning is only for the affluent. This is **false.** Estate planning is for anyone who wants to protect the people they love and the assets they have worked so hard to accumulate.
- While uncomfortable to think about, effectively planning for when you are no longer here can save your loved ones a great deal of time, money, and emotional hardship.

Setting Estate Planning Goals

Each family has a unique story and circumstances surrounding their estate planning needs. Setting clear goals for what you would like to do with your assets when you are gone is the first step in the estate planning process. Ask yourself what you would like your assets to do for your family when you are gone?

- Do you have a family member that you wish to provide an income to after your death?
- Do you have family members that you wish to fund an education for after your death?
- Do you have any family members that have special psychological or physical needs that you would like to provide financial support for?
- Do you have a parent or other relative that you wish to ensure is taken care of financially if you die prematurely?

Estate Planning: The Basics

1. Wills
2. Beneficiaries
3. Power of Attorneys
4. Trusts
5. Review

1. Wills

Wills: The Basics

- The Will is the cornerstone of any estate plan. It is a legal document that coordinates the distribution of your assets at your death
- There is no law that says you must create a Will, but neglecting to do so puts the fate of your assets and dependents in the hands of the province.
- A Will allows you to:
  - appoint an executor
  - designate beneficiaries for your assets
  - appoint guardians for children in your care
  - instruct on how your assets should be distributed.

Wills: Choosing Executors

An Executor is the personal who will represent you when you are deceased. This person is most known as your “executor” or “executrix”. Some jurisdictions simply refer to them as a “personal representative” .

Who you choose as an executor is extremely important. This person(s) will be making big decisions on your behalf after you are deceased.

An executor will have to act in accordance with your will.

Wills-Choosing Executors Cont.

- Appointment of executor should be not be taken lightly. You may want to look for the following characteristics when choosing your representative:
  - Trustworthy and Honest
  - Organized
  - Responsible
  - Discreet
  - Intelligent
  - Availability

Wills:What Happens if I Die Without One?

Dying without a Will is known as dying "Intestate". If you do not write a Will, your assets will be distributed to your next of kin in accordance with the intestacy rules in your province. This can cause several problems:

- Dying without a Will does not automatically mean your spouse receives the estate, especially if you have children. This is a common misconception.
- If you have young children/grandchildren, and they become entitled to your estate, they may receive large sums of money when they are not mature enough to manage it.
- Blended families need to take extra caution as rules regarding stepchildren are not the same as biological or adopted children.
- Common law partners are not treated the same as married partners, depending on the jurisdiction.
- Disabled dependents may not be properly supported
- Even if you do not feel you have any assets, it is very possible that your estate will have assets that need to be distributed (ie. Savings accounts, homes etc)

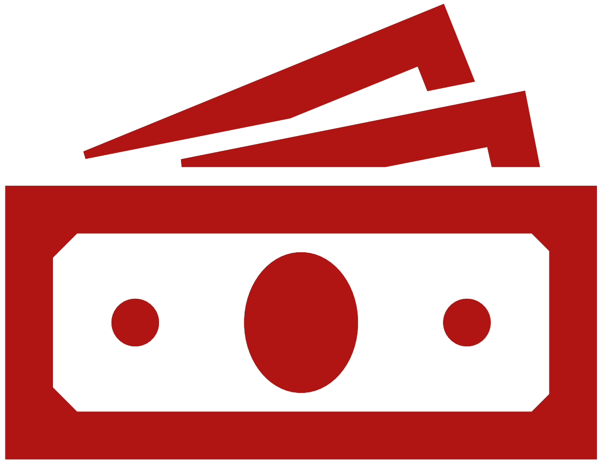
Wills: How Do I Create One?

- Wills should always be done under the guidance of a Lawyer.
  - A pre-paid Will kit is not recommended in any circumstance.
    - Every individual has unique issues that need to be discussed with a lawyer.
    - Many people feel they have “simple” situations, only to find out their estate will be more complicated than they once thought.
    - You need to ensure that your will is enforceable in every jurisdiction where you have property.

2. Beneficiaries

Beneficiary Designations-The Basics

- These designations are permitted by certain types of investment and insurance plans.
- A beneficiary designation allows funds to be paid directly to the intended recipient, therefore bypassing probate.
- Beneficiary designations are one of the simplest, yet most impactful estate planning tools available.



Beneficiary Designations Cont.

- Only certain plans allow beneficiary designations:
  - Life Insurance Policies
  - Segregated Funds
  - RRSPs
  - TFSAs
  - RRIFs
  - LIRA
  - RPPs
  - LIF
  - Other types of pension plans

Beneficiary Designations: Considerations

- Income Tax Implications
- Multiple and Contingent Beneficiaries
- Minors or Persons with a Disability
- Liquidity Needs of the Estate

Income Tax Implications

While beneficiaries do receive fund directly, they are not without impact to the estate of the deceased. Tax implications need to be considered before naming a beneficiary.

If the beneficiary is a spouse or common law partner, tax implications can typically be deferred.

If the beneficiary is someone other than a spouse, than the estate most often becomes responsible for paying tax on the entire amount in the plan at the time of death.

The CRA generally considers the beneficiary and estate to be jointly liable for taxes owing, however; the CRA will try to collect funds from the estate first.

Multiple and Contingent Beneficiaries

Most plans allow more than one beneficiary to be designated. For example: if you have four children, you can divide the money equally between them.

Plan holders are also entitled to leave a **contingent** beneficiary. This means, if your primary beneficiary(s) predecease you, you can select who would then be entitled to the funds.

Minors/Person with a Disability

- **Minor beneficiaries:** Minors should be designated carefully. If you designate a minor as a beneficiary of your account, you will likely be prompted to designate a Trustee. The Trustee will be responsibly for management of the funds until the child becomes the age of majority. This could have unintended consequences. For example, trustees are only valid until the child is 18. This means the child could receive a large sum of money at 18 that they are not mature enough to handle responsibly.
- In many cases, a trust that is established in your Will makes more sense for minors than a direct beneficiary designation. This is something that should be discussed with your lawyer.
- **Disabled Beneficiaries:** A trust set up through your Will is typically a better choice for a disabled person than a beneficiary designation. This can be for several reason. The most common issue being that a windfall of money can interrupt social assistance payments or other government supports. Depending on the nature of the disability, it may also be prudent to leave money in a trust so that the money can be properly managed for the individual.

Beneficiary Designations- Liquidity Needs of the Estate

Beneficiary designations shine because they allow heirs to receive funds quickly and discreetly. Unfortunately, this has the potential to cause issues for your estate if proper planning is not completed.

Estates often need to cash to pay tax bills and fund the instructions left in the will. If all/most assets are passed outside of the estate, your estate may have a cash flow issues.

A common solution to this problem is **Life Insurance**. This is recommended strategy for most individuals. Life insurance provides the estate with cash to settle any outstanding liabilities.

Unintended Consequences of Beneficiary Designations

- Equality in an estate is typically important to families. Beneficiary designations can have un-intended consequences without careful planning and can cause some beneficiaries to get more or less than intended. For example:
  - *One child is designated as the beneficiary of an RRSP worth $500,000 and one child is left an estate worth $500,000. This may seem like an equal distribution when in reality, the child that is left the estate will receive much less than the child names as a direct beneficiary. This is because the estate will be responsible for paying tax on the RRSP amount, depleting the assets and leaving less than intended to the other child.*
- **It is paramount that beneficiary designations be co-ordinated with your Will to ensure your assets are distributed how you intended.**

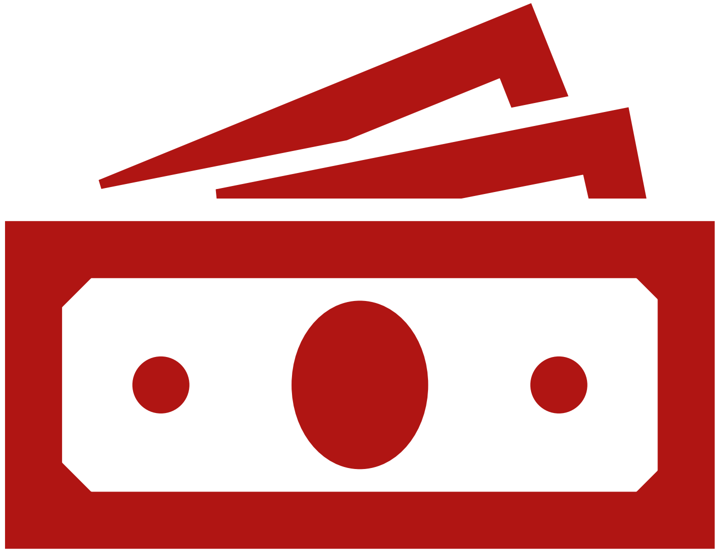
3. Power of Attorneys

Power of Attorney-The Basics

- A power of attorney is potentially the most important document in your financial plan. A Power of Attorney (POA) is the person authorized to act on your behalf if you become incapacitated.
- There are two types of Power Of Attorney (POA): Finances & Healthcare

Power of Attorney for Finance

- A POA for finances authorizes your attorney to make financial decisions on your behalf. They can act on your behalf when you are incapable of doing so.
- In general, a POA can do anything you can do with your finances, with exception of making a will or giving away assets. Examples of actions your POA can NOT do:
  - Changing or adding beneficiaries to your assets
  - Add anyone as joint owner to your assets
  - Gift or loan your assets
- If you do not appoint a POA for finances, your family members will have to apply to a court in order to obtain the necessary powers to deal with your assets. It is possible the court could appoint someone that you would not have chosen yourself.



Power of Attorney for Finances-Cont.

- A POA is only valid when you are of sound mind. This means if you become mentally incapacitated it becomes void. The solution to this is to appoint an **enduring POA.**   This type of POA allows your appointed person to make financial decisions on your behalf even if you are incapacitated.
- A lawyer can prepare both a Power of Attorney for Finances and an Enduring Power of Attorney. They will help you understand your needs and ensure that you have the appropriate POA in place for any scenario.

Power of Attorney for Health

A Power of Attorney for Healthy is someone that you appoint to make medical decisions for you if you become unable to do so yourself.

You do not have to appoint the same person as your attorney and finances and healthcare.

It is important that you tell the appointed person that they are your POA. It is also recommended to provide a copy of your POA for Health to your Doctor. This prevents any confusion in the event decision need to be made quickly about your medical care.

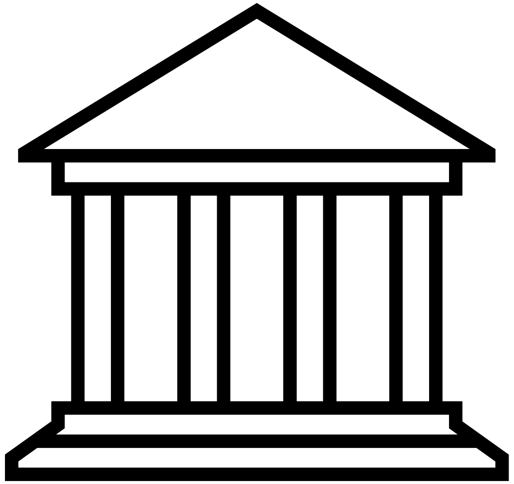
How to Choose a Power of Attorney

- Power of Attorney for Finances
  - Your POA should be someone you trust, and they should be chosen carefully.
  - A POA should be knowledgeable of personal finances and/or can navigate potentially complicated financial scenarios.
  - Be sure to speak to your attorney in advance of appointing them. POA is a big responsibility, and it is only fair to confirm that they are willing to take the position.
- Power of Attorney for Health
  - Does not have to be the same of as your POA for Finances
    - Both positions require a different skillset
  - You may want to consider appointing someone who will be able to make decisions quickly, potentially under a great deal of pressure
  - Someone with experience navigating the health care system could be an asset

4. Trusts

Trusts: The Basics

- Trusts are a complicated legal tool. They have many "gray" areas that can make them difficult to navigate. This is why they should only be implemented on the advice of your advisor and lawyer.
- Trusts have many uses and can be used to accomplish a variety of estate planning objectives. While the scope of this topic is too complex for this presentation, we will touch on some trust basics.



What is a Trust?

- Simply put, a trusts are a tool by which assets can be held by one person for the benefit of another person and are held with certain conditions.
- There are 3 key players in a trust:
  - **Settlor:** The person who created the trust
  - **Trustee:** the person who holds the assets for the benefit of another
  - **Beneficiary:** the person for whom the assets are being held for
- Examples of appropriate trust usage:
  - When you wish to leave money to a minor, but do not want them to receive the money until they are mature enough to manage it responsibly.
  - Leaving money to adult children but you have concerns about capital protection in the event of marriage breakdown between the child and their spouse
  - A blended family. Trusts can allow you leave money to your spouse without excluding children from your previous marriage. Trusts are a very valuable tool in this instance.
  - When you have a child with a disability

Types of Trusts

- There are many types of trusts, but every trust falls into one of two categories:
  - **Inter-vivos:** A trust between two living persons. Examples of an Inter-vivos trust include:
    - Spousal Trust
    - Family Trust
    - Alter Ego Trust
  - **Testamentary:** A trust established at the settlor's death. Examples of a Testamentary trust include:
    - Insurance Trust
    - Henson Trust (for a beneficiary with a disability)

Trusts: Key Considerations

- Trusts are an invaluable planning tool in certain circumstances. They can remain intact for many years after your death. They require careful thought and planning.
- Trusts are taxed in a unique manner. The Income Tax Act in Canada treats a trust as separate entity. This means that any income earned within the trust is taxable to the trust. However, income paid out of the trust to the beneficiaries can be taxed in their hands. Ongoing tax planning for the life of the trust recommended.
- Every trust has terms and conditions that are set out by the settlor. If these terms and conditions are violated, there can be significant legal and tax consequences.

5. Review

Reviewing Your Plan

The most important (and neglected) part of any estate plan is **regular reviews.** An estate plan is only good if it is up to date.

A review of your estate plan should be done every year and any time you have a major life change

How to Conduct a Review

- Your annual Estate plan review should involve 3 parts:
  - Inventory of Assets
  - Beneficiary Review
  - Life Insurance Audit

Inventory of Assets

- Far too often family members are left scrambling to find important documents and information. Your financial advisor and lawyer can help you compile the most up-to-date information on your accounts and legal documents. Keep a file or binder of the following documents and update it annually:
  - Investments
  - Bank Accounts
  - Annuities/Life Insurance
  - Personal Property (Art, Jewelry etc.)
  - Pensions
  - Value of Any Businesses You Own and Their Structure
  - Digital Assets

Inventory of Assets-Cont.

- Create a document that indicates the location of the following:
  - Will and Power of Attorney
  - Birth and Marriage Certificates
  - Divorce/Separation Agreements
  - Insurance Policies
  - Deeds
  - Safety Deposit Box
  - Preplanned Funeral Arrangements
  - Trust Documents
  - Names and Contact of Personal Advisors (lawyers, accountants, financial planners)
  - Executors, liquidators, and trustees

Beneficiary Review

- Beneficiaries should be reviewed annually with your financial advisor. Some major life changes that warrant a review are:
  - Death of a family member
  - A birth
  - Divorce
  - Change in relationship dynamics

Life Insurance Audit

- Ask yourself the following questions:
  - What is the purpose of my current coverage and is it enough to fund my goals and obligations?
  - Have I experienced any major life changes?
  - Have I reached any financial milestones that would warrant a change to my insurance ?
  - Have my policies renewed or become paid up? What are my options?

Questions?