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Top three wealth preservation strategies

You've spent most of your life building wealth to share with your family and other loved ones. Just as you drew on your talents and the help of an advisor to create your wealth or your assets, you must now put plans in place to preserve it.

Asset protection is the foundation for an effective estate plan. Many individuals need to create personal asset protection strategies to deal with creditor claims or estate tax. In addition, assets may be subject to claims under family law issues or dependant beneficiary claims. Any of these issues can significantly impact your personal estate unless you plan ahead. Your circumstances will have unique requirements, so working closely with your advisor to find the most suitable wealth-preservation strategies is important.

What assets can I protect?

Your plan should include any asset you own, including investments, real estate, family heirlooms, automobiles and collections of any description. If you are a business owner, you may need to transfer property to a holding company or trust to protect personal assets from potential business creditor claims. Protecting assets from unnecessary claims or taxation can ensure future financial security for you and those you care about. In addition, you should consider buying life insurance to ensure that your cash flow or that of your heirs is not unduly disrupted in the event of your death or disability.

Top three strategies

While there are many strategies for protecting assets, these are the most common:

For more information about family law issues, please refer to the *Tax & Estate InfoPage* entitled *Family law and estate planning.*

1. Transferring assets to your spouse
2. Transferring assets to other family members
3. Protecting assets for yourself through a trust

Strategy 1: Transferring assets to your spouse

You may transfer assets to a spouse or a qualifying "spousal trust" on a rollover or tax-deferred basis. This means that you, or your estate, may not have to pay capital gains tax on the assets transferred to your spouse or spousal trust. This strategy can help you preserve assets in the best interests of your spouse, especially in family circumstances where there has been more than one marital relationship, family conflict, or in situations where business assets must be separated from personal assets for creditor protection purposes. Depending on the transfer and the reason for it, the law may require you to pay tax on future income and capital gains on the transferred property. The protection of assets may not result in tax savings to you, but will accomplish other planning needs that you feel take priority. Your advisor can help you weigh the benefits of any strategy.

The term "spouse" has taken on new meaning

Each province has rules regarding property sharing between partners in a spousal relationship when that relationship breaks down. Some provinces have also given certain property rights to a surviving spouse upon the death of the other spouse. If your spouse survives you, those property rights can override the instructions in your will. In addition to a married person, the meaning of the term "spouse" now includes a person who is, or has been, in an opposite- or same-sex conjugal relationship for a defined period of time, usually at least 12 months. Speak to your advisor regarding the property rights of parties in a marriage or conjugal relationship as outlined in family law and succession law. There are provincial variations on the definition that your advisor can clarify for you.

For more information on planning for people with disabilities, please refer to the *Tax & Estate InfoPage* entitled *Disability tax and estate planning.*

Strategy 2: Transferring assets to other family members

Planning ahead may highlight the need to establish a trust. You can set up an informal trust to hold assets for children under the age of majority. This "in-trust" arrangement has some of the tax benefits of formal trusts, but generally does not protect assets from being claimed by the child once he or she becomes an adult. Although many people view formal trusts as a way to minimize or defer tax, establishing a trust can also protect assets against mismanagement by beneficiaries. That's why the tax benefits may be reduced in favour of protection and control. In the past, it was usual to set up a trust naming a single child or other beneficiary. More recently, however, it has become more common to use a "discretionary" trust; that is, a trust in which the trustees have the power to pay out or not pay distributions and allocations of income among beneficiaries. One type of discretionary trust is commonly known as a "family" trust. In addition to naming a number of family members as beneficiaries, this trust has many advantages, including control of assets, some income-splitting for tax purposes, and inheritance planning. It can also be helpful in situations where a beneficiary is not financially responsible and requires financial protection or guidance. In addition, if you have a family member who is mentally or physically disabled, there are special wealth preservation issues that can be resolved by a discretionary trust, which include protection of assets for the beneficiary. The trust can also help you maintain the federal and provincial social benefits that may be essential for the future well-being of your beneficiary.

For more information about setting up a trust, please refer to the *Tax & Estate InfoPage* entitled T*ax planning using alter ego and joint partner trusts*.

Strategy 3: Protecting assets for yourself through a trust

There are some wealth preservation issues that can be resolved by a revocable, or reversible, Alter Ego/Joint Partner trust. This type of trust is an option for people who are 65 or older and want to:

- Protect assets from probate tax (in some provinces there is a tax charged based on fair market value of assets distributed under your will), or
- Avoid estate tax in a foreign jurisdiction (such as tax on assets held in the United States), or
- Ensure that assets are managed for you and/or your spouse in the event of your disability

For more information about this topic, contact your advisor, call us at 1.800.874.6275 or visit our website at www.invescotrimark.com.

Getting advice

These are only three strategies that may help you protect your wealth for your future benefit or that of your loved ones. Legal and accounting fees, tax implications and other issues must be considered as part of your planning priorities. Work with your advisor to determine the most effective planning strategy for you. Your loved ones will benefit from the time you spend today to protect their well-being tomorrow.

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