TACKLE YOUR ESTATE PLANNING *NOW*...

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Estate planning is not an easy process for people to go through; but it is enormously important to do. Most people have wills that are very out of date and woefully inadequate for their family situation. Many professionals, including dentists, have complex financial and family situations. Financial complexities include ownership of vacation homes, rental real estate, large insurance policies, interests in businesses, professional practices and investment holding companies. Family complexities include second marriages, children with special needs or challenges, family members with U.S. citizenship or residency, and children with financial difficulties or unstable marriages. One risks financial loss, damage to family relationships and even harm to beneficiaries' well- being if the structure of the inheritance is not appropriate. To minimize these risks, it is critical to go through a thorough estate planning process with specialized professionals.

Let's look at Dr. Gema Paterson and her husband Mr. Jake Smith (fictional names): Gema is age 50, and has an incorporated dental practice. Jake is semi-retired at age 53 and does some engineering consultation work, part- time, as a sole proprietor. This is a second marriage for Jake. He has one adult son age 26 from his previous marriage. Jake and Gema have 2 daughters from their current marriage aged 19 and 21. They own their home jointly. Gema also owns a waterfront cottage in her sole name that she inherited from her parents. They each have RRSPs and investment assets in their separate names. Additionally, they each own life insurance policies that pay $1,000,000 at death.

> Thorough estate planning gives you peace of mind that your family will be taken care of in accordance with your wishes.

They have wills that were done 15 years ago when the children were young. Their primary focus at that time was to set up trusts for the children to delay distribution to age 25 and to name guardians for the custody of their children should both Jake and Gema die at the same time. The wills did not provide for Jake's son from a previous marriage as Jake was carrying a special life insurance policy at the time with his son designated as beneficiary. That policy was cancelled a few years ago.

ISSUES AND PLANNING OPPORTUNITIES

For many couples in this type of situation, the priorities are to ensure financial security for family members, tax minimization, and protection of the assets over the longer term. Here is a sampling of the important issues that Gema and Jake would need to explore with their estate planning lawyer:

- **Who should be the executor(s) of their respective estates?** This is one of the most important decisions to make. The executor has a great deal of responsibility and one should consider the age and availability of the person(s) and their skills, and ability to deal with the beneficiaries.

- **How would Jake like to provide for his son's inheritance?** Should he use life insurance proceeds or some of his assets? Would he like to give him an inheritance in one lump sum or would he like to spread it out over time until his son reaches a certain age? He should be aware that if he dies first and passes all his assets to Gema, he would need to rely on the provisions in Gema's will to provide for his son. Her financial situation at her death and her relationship with Jake's son at that time is unpredictable.

Top 5 Issues in Planning Wills...

1. Choosing the right executors
2. Ensuring assets are distributed according to your wishes
3. Minimizing estate erosion from tax and probate fees
4. Avoiding family strife during estate administration
5. Protecting assets for your heirs

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- **How will Gema want to deal with the "family cottage"?** She may not want Jake to own it outright if she dies first, as she would need to rely on his will to pass it on to her daughters. The family cottage can become a contentious asset between the beneficiaries. She might consider having the cottage held in trust after her death, for the benefit of Jake and the 2 daughters with a provision that the cottage ultimately passes to the daughters.

- **How will they distribute the wealth?** Since their combined wealth is substantial, they will need to consider the best way to distribute that wealth between their daughters once Jake and Gema are both gone. If a young adult receives too much wealth at once, this can sometimes be very detrimental to them. In addition, many parents fear that if a child has a large inheritance and subsequently has a marital separation, much of the wealth will be going to the ex-spouse. All these issues are fundamentally important to address. Often, the use of testamentary trusts can help alleviate some of these concerns. Such a trust is created in the will and only comes into effect after the testator's death. The inheritance is held in the trust and the testator outlines in his/her will the frequency of distribution of income and capital from the trust. This can protect the inheritance over time while still allowing access to the funds for education, health, purchase of a home etc., if the terms of the trust are drafted properly to allow it.

- **How can they reduce administration taxes?** Gema should discuss with her lawyer the use of a "multiple wills" strategy in order to save estate administration tax (formerly known as probate fees in Ontario) when she dies. This strategy is often of benefit to individuals who own shares in private corporations, including professional corporations such as dental practices. This could save her estate administration taxes of 1.5% of the value of her dental practice.

Estate planning can uncover opportunities to save tax and probate fees as well as protect assets from getting into the wrong hands.

If Jake and Gema are remiss and do not undertake a thorough estate planning process, their heirs could encounter many pitfalls including paying extra tax and probate fees. Even worse, there could be long term impacts on the family members and their relationships if disputes arise over how certain assets are handled, such as the family cottage. Moreover, if an heir is overwhelmed with the immediate receipt of a large lump sum inheritance, she may mishandle it or behave in a self- destructive manner.

Tackle your estate planning sooner rather than later! Reach out to our team today, so that we can make the process as smooth as possible for you, and your family: **1-844-311-8633**

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