



Effective will and estate planning can minimize the amount of income tax payable and leave more financial resources to your dependants and the charities you care about. We invite you to explore some of the strategies and ideas below with your financial planner, accountant, lawyer or stewardship consultant when planning your estate and will.

1) Tax Free Savings Accounts (TFSA)

Generally best to name one's spouse as a successor holder. No tax consequence on roll-over and assets can continue to grow tax free. Can also name spouse as beneficiary.

Can also name child(ren) as beneficiaries, provided they have contribution room.

Upon passing of last spouse, TFSAs (without a prior beneficiary) become part of one's estate and proceeds are subject to probate fees.

If TFSA assets are not needed to settle outstanding liabilities, naming a registered charity as the beneficiary can minimize probate fees and generate a donation receipt

2) RRSP's and RRIF's

Can incur significant income tax upon passing of the last spouse.

Assets in an RRSP accrue tax free, but are taxed as income when withdrawn.

RRSPs need to be converted to a RRIF by Dec 31st in year the holder turns 71. Minimum mandatory withdrawals increase from 7.38% to 20% from age 71 to 94+.

Naming one's spouse as beneficiary allows tax free roll-over upon passing.

Upon death of remaining spouse all RRSP or RRIF proceeds become taxable income.

If a couple or individual has several years of paying minimal or no income tax it may be beneficial to make annual withdrawals from the RRSP and place into a TFSA.

A child(ren) or charity may be named as a beneficiary of RRSP assets. This avoids probate fees, however the estate will need to pay any resulting income taxes.

3) Open Accounts

Additional savings and investments can be held in unregistered or open accounts. These are typically held jointly with a spouse. If so, they revert to the surviving spouse upon passing with no income tax payable.

Significant income tax can arise upon passing of last spouse from any unrealized capital gains. Proceeds form part of one's estate and subject to probate fees unless a prior beneficiary is named.

4) Appreciated Securities in non-registered accounts

Includes publicly traded shares, mutual funds, ETF's or REIT's that have gone up in value.

When held jointly, or bequeathed in the will, they can be rolled over to a surviving spouse at their cost base value with no income tax payable.

When assets are not left to the surviving spouse, or there is no spouse, there is a deemed disposition upon death (underlying asset is sold) and a capital gain is realized with 50% of the gain being taxable (when held outside of an RRSP or TFSA).

If not needed, consider a gifting some of these assets in-kind while still alive. They can often be transferred to a registered charity as a donation. The capital gain is realized in the hands of the charity (which does not pay income tax) but a donation receipt is issued to the donor for the full fair market value.

Appreciated securities can also be gifted in-kind in one's will. The capital gain is realized by the charity, proceeds are not subject to probate fees, and a donation receipt is issued for the full market value.

5) Principle Residence

Typically held as joint tenants. Ownership transfers to surviving spouse.

When the principle home is sold while alive, or sold by executors upon death of the last spouse any capital gain realized is offset by principle residence exemption. No income tax is payable.

6) Donation Receipts

While alive, claims for donations are limited to 75% of the reported net income and unused donations can be carried forward for up to 5 years.

Donations made in one's will may be deducted from up to 100% of the net income reported in the deceased's final tax return. Donations can often reduce income tax payable at a rate of 40-50% of the gift amount in final returns, depending on income level. Unused amounts (from year of death) can also be carried backwards 1 year. In some cases, executors can also apply them against the future income of the deceased's estate.

7) Personal Vehicles

Can be transferred or gifted in a will to a specific person.

If not a specific gift, then the car should be sold by the executors and the proceeds form part of the deceased's estate and subject to probate fees.

8) Cottage & Investment Properties

Vacation properties owned personally are often a source of taxable capital gains. They are deemed to be sold at market value when sold or gifted to family in ones will or while alive. In rare circumstances, a capital gain exemption may apply if it qualifies as a principle residence.

In some cases transferring to a child or a family trust (all children as beneficiaries) early can defer capital gains tax payable.

Rental properties can pass to a surviving spouse with no capital gains tax payable. If held jointly no probate fees are payable. However, on the passing of the second spouse, whether property is transferred to children or sold to a 3rd party property is deemed to be sold at the market value. Significant capital gains (50% is taxable) and recaptured depreciation (fully taxable) can result in significant taxes payable.

Considering a donation to charity from other liquid estate assets, or from life insurance proceeds can generate a donation receipt to minimize or avoid taxes payable.

9) Life Insurance Policies

Most life insurance is purchased with after-tax funds and therefore the proceeds are not taxable to one's estate or other beneficiary.

Purchasing term life Insurance can be useful for young-middle aged couples with dependant children or significant liabilities, in their will & estate planning.

For larger estates with significant tax liability upon passing, (or to keep business assets intact when equalizing an estate) a whole life policy or universal life policy may be suitable, but are costly to purchase & maintain.

Consider designating some life insurance proceeds (if not needed to pay tax or other beneficiaries) as a donation to charity in your will. By designating direct beneficiaries (relatives or a charity) on the policy itself, the funds do not typically form part of the estate and proceeds are not subject to probate fees.

10) Small business shares

In addition to a primary will (personal assets) individuals owning company shares should also consider a secondary (corporate) will that specifically deals with business assets as agreed to in a shareholders agreement. Avoids probate fees.

Shares of an *active* business corporation are deemed to have been sold at fair market value upon death of the holder. An \$800,000+ lifetime capital gains exemption (indexed for inflation) is available to offset taxable gains. For gains over the exemption amount, 50% is added to taxable income.

Often, the older generation will freeze the company gains into preferred 'freeze' shares and issue new growth (common) shares to the next generation. Upon death of a preferred shareholder, only the freeze shares attract capital gains tax (if above the exemption amount) on their final tax return.

11) Farm Assets

For Qualified Farm Property a lifetime capital gains exemption to individuals of one million per spouse on title is available. Farm property can include land, production quotas, shares of a farm corporation or partnership interest.

Farm property can typically be transferred while alive or in a will to children or grand-children at any value between the cost base and market value. Generous rollover provisions allow for minimal or no tax to be paid when transferring to family.

If farm assets need to be sold (at market values to unrelated parties) to settle ones estate, and capital gains are above the exemption amounts, significant income tax payable can then arise.

Consider a planned gift in ones will to help offset potential future income taxes. Engaging a succession advisor or estate planning professionals for continuity planning and estate strategies is encouraged.

12) Trusts

Testamentary Trusts (set up via your will) can be a useful way to provide for minor children, children with special needs, a spouse who is ill/incapacitated or for grand-children. Can also be used for keeping business assets intact while the beneficiary is not yet known or decided.

Inter-vivos Trusts or "Living Trusts" are established and funded while a person is alive.

There are many types and they can be used for: deferring and spreading future income to children, estate freezes, separating control of assets from the income benefit, minimizing probate fees, providing for children with special needs, or placing management of assets with a professional trust company.

The services of specialized legal and tax professionals are encouraged when setting up living trusts. Some people use trusts to also benefit charities.

13) Benefit of living gifts

When not all assets are needed to fund living costs and provide for relatives, some couples & individuals choose to make a significant estate gift to charity while alive.

You get to see or experience the benefit to charity that the gift provides.

It is useful as a tax strategy when business assets are sold and a large taxable capital gain is triggered. Also used when RRSP or RRIF proceeds significantly increase taxable income.

Placing gifts into a Donor Advised Fund or Private Foundation can be a way to 'pre-fund' future giving, while maintaining discretion on the future payment.

Living gifts are also used to help minimize income tax from ongoing personal or business operating income.

Gifting assets from an estate early also reduces future probate fees.

Summary:

No list of strategies or ideas is ever complete for individual circumstances since tax laws are often changing and no two situations are alike. Planning to minimize income tax or reducing probate fees (in Ontario up to 1.5% of estate assets) may be beneficial but should not be the primary nor only goal of estate planning. Communicating faith values, promoting family harmony and honoring God with all that he gives us, are more important.

Harvest Foundation hopes this document can assist in effective stewardship planning for the dependants and material blessings God gives you to work with in this life. Feel free to take this document to your professional advisors for review of your specific situation and goals. You may also contact the Executive Director of Harvest Foundation for a further discussion or more information. We can assist in making referrals to qualified professionals.



Additional Resources:

Personal Financial Planning 5th Edition. Kwok Ho & Chris Robinson

The Canadian Guide to Will and Estate Planning 4th Edition. Douglas Gray & John Budd