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Worth a Second Look — *Power Play Blog 4.0*

Welcome to 2022 and our first blog of the year. The beginning of every year is an excellent time to be retrospective, so we will cover a variety of topics discussed in previous blogs that certainly merit a second look.

Let's start with a list of 7 common estate planning errors and items that can come back to haunt even the best-laid plans.

1. **Overlooking or failing to keep beneficiary designations up to date**

   Many of the assets included in an estate plan are controlled by beneficiary designations held by a 3rd party such as a bank, life insurance company, or pension plan owner. Examples would be your annuities, life insurance policies, pension plans, including the NHL and PHPA pension plans. Other retirement programs such as RSP and RIF (Canada) and 401K, IRA (U.S.) would also have beneficiary designations.

   It is imperative that the beneficiary designations you named on assets continue to reflect your wishes. And keep in mind that these companies may only distribute assets to a beneficiary that is named on their respective beneficiary designation form. So, regardless what you outline in your will with respect to these assets, the 3rd party companies will distribute the assets only to the person(s) named on the beneficiary designation form.

   What can derail the best of plans? Here are a few examples:

   - Not changing the beneficiary designations after a divorce or separation, leaving assets in the hands of an ex-spouse
   - A first-born child named on documents, but subsequent children missed or neglected
   - New designation forms not completed in the event of one of the spouses' premature death leaves assets to a deceased person. In many jurisdictions those assets default to the estate, which could result in extra tax, time, and legal fees
   - Single people naming mom or dad as beneficiary on assets such as life insurance, and forgetting to change that years later when they are older, married and have children of their own to consider

2. **Tax consequences or ill-will amongst heirs**

   Changing title or selling assets to children (either by means of jointly held bank accounts or transferring title to the house for a nominal amount – $1 for example) could lead to ill feelings

amongst a group of heirs, tax consequences, and in the worst-case scenario, a disqualification of the will.

3. **No regular review of the value of specific assets named in the will**

   When certain specific assets (investments, art, jewellery) are named in the will, you must be aware of the value of those gifts if, subsequently during your lifetime, you sell or dispose of those assets.

4. **Making a direct gift to someone who cannot legally own property**

   Until a minor achieves age of majority, they cannot legally own property. In that case, who is going to manage the gift in the meantime? If there is a guardian named, what if that person is a former spouse, or a neighbour or family member who has moved to another country, or an individual who is no longer associated with you or your family? You can see how this might be messy.

5. **Failing to plan for the death of a person named as beneficiary in your estate plan**

   What happens to the gift or bequest if that beneficiary should die? If they had children, were those children considered in the plan? If not, it is likely that a whole line of intended beneficiaries to your estate is simply left out of the will all together.

6. **Potential utilization of a residuary clause**

   Those who have already gone through the estate planning process with us will be familiar with the concept of a residuary clause. A residuary clause allows for assets not specifically mentioned in a will or trust, to be distributed to others (charities, foundations, friends, or relatives) after the initial bequests have been considered. This clause will also become useful if the value of specific gifts changes.

7. **Consideration of the unexpected curve balls life may throw at us**
   - A named executor or attorney for a power of attorney ages or no longer has an interest in acting on behalf of the testator (person drafting the will)
   - A guardian marries, moves away, has children of their own, and no longer is an appropriate guardian for the children of the testator
   - A primary beneficiary develops a substance abuse problem, is unable to oversee monetary responsibilities or divorces his/her spouse
   - A joint owner of an asset has debt or legal issues and the assets that are joint now form part of a settlement or legal proceeding, possibly eroding the estate of the original testator.

Many clients and their families, particularly those that often relocate to new cities, states, provinces or even countries, encounter different estate laws in each jurisdiction. For them, estate planning is an ongoing process. Documents and files need to be reviewed, and the situations that led to certain decisions re-assessed at least every 3 to 5 years. At ONE Sports, we build that review into our process – The Pro's Process – so these important aspects of your estate plan do not get overlooked.

The opinions expressed herein are those of the ONE Sports + Entertainment Group. ONE Sports does not provide tax, legal, or accounting advice. You should discuss your individual circumstances with professionals in those areas.
ONE Sports Blog

As always, your team at ONE Sports is ready and available to assist you in ensuring your wishes and the needs of those most important to you are adequately documented and stand the test of time. This will give you the peace of mind to concentrate on other aspects of your life that give you the most pleasure. Until next time.

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