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THANKS AND GOOD WISHES

This is a time of transition for two people at ECC — Ian Johnson and Victoria Sova.

Ian, to use his own words is now "mostly retired." He will be doing some work on an as-needed basis, primarily in the estate planning area. He will also be writing articles for this newsletter.

Ian joined us 20 years ago, in 1989. To me, his most distinguishing attribute has been his concern for and care of his clients. While it is a bit extreme to say that he has felt every drop in the stock market, he has certainly agonized over every decline and what it would mean for his clients.

His other distinguishing feature has been his loyalty to ECC and his concern that he uphold its image. Ian, you have not only represented us and all we stand for extremely well, but you have added so positively and so much to this image.

In retirement, Ian and his wife, Liz, hope to do a significant amount of travelling, much of it out west to visit their new grandson, Bodhi Cael Gray, who was born in July.

Thank you, Ian, for looking after the clients and the firm so well for the past 20 years. While we know it's not a final goodbye, we will miss your positive and cheery demeanour around the office.

Victoria is now on a one-year leave from ECC. On September 10, 2009, she gave birth to her son, Alex. Both are well. Alex is the first child born to an ECC employee since Pat's and my son, Stuart, was born 33 years ago.

While we will miss you, Victoria, we know that spending the first year with your new child is extremely important, crucial to your bonding and Alex's development.

I know our readers will join us in wishing Ian, Victoria and Alex well.

We would also like to welcome Suzanne Godbout. Suzanne will be filling in for Victoria. You will enjoy her pleasant manner.

Chris Snyder

TILL DEATH US DO PART

Ian Johnson, CFP

Joe and his wife Alicia were enjoying a drive in the country. It was their second wedding anniversary and they were discussing when to start a family. A pick-up truck crossed over the centre line at the crest of a hill, hitting their car head-on. Joe was killed instantly and Alicia died not long after, en route to the hospital.

A tragic event. It is a good thing that Joe and Alicia had previously drawn up their wills, naming Joe's brother, Ron, as the executor. However, they had prepared the wills themselves, from a kit, and had neglected to include a common disaster clause.

Common Disaster Clause

In most wills involving spouses, you will read the words:

"….to pay or transfer the residue of my Estate to my (husband or wife) provided that (he or she) survives me for a period of 30 days. If my (wife or husband) should predecease me, or should survive me but die within a period of 30 days after my death, I DIRECT my Trustee to …..".

This is the common disaster clause. Joe and Alicia had left their estates to each other, or failing that to their families, but they had not included this 30-day clause.

As a result, Joe's estate will be administered first, with his net assets passing to Alicia's estate. Ron, as executor, will have to administer Alicia's estate also, but will have to include Joe's net assets again in determining the value of her estate. Two estate administrations including some of the same assets twice results in a duplication of costs, effort and perhaps even double probate fees. Not only that, the assets of both estates will now pass to Alicia's family, as stated in her will. This may not have been what Joe had intended and could cause resentment in his family.

If this had been a second marriage for Joe or Alicia, the common disaster clause would have been even more relevant. Without it, there would be an unintended distribution to the family or the named beneficiaries of the second spouse. If there had been children from the first spouse's previous marriage, they would be bypassed, causing conflict and perhaps even court proceedings.

The common disaster clause alleviates these problems. If Joe had included it in his will, his assets would have been passed down to his family as he intended. The same would apply to Alicia's estate.

Incidentally, the period of time stated in the common disaster clause does not have to be 30 days. Any time frame may be chosen, although 30 days seems sensible and is the most common.

In addition to a common disaster clause, a will should also include a survivorship clause, which directs how the estate is to be distributed when a spouse predeceases, dies simultaneously or dies within the stated time frame. And to cover the case where an entire family could be killed in a common accident, it is prudent to expand the survivorship clause to include certain other family members or even charities, to prevent an intestacy.

Simultaneous Deaths

What if Joe and Alicia died at the same time or it was impossible to determine who died first? How would the estates be affected? In Ontario, the answer is provided in Part IV of the Succession Law Reform Act.

The act states that if two or more people die at the same time or in circumstances where it is uncertain who died first, the property of each person is to be disposed of as if the person owning the property had survived the other. So the net assets will be distributed to named alternative beneficiaries, as stated in the will of each deceased. If any deceased persons had no valid will, their net estate property will go to their next-of-kin.

The laws of succession vary by province. In some provinces where both spouses die in a common disaster, it is assumed that each spouse predeceased the other. In others, it is assumed the older spouse predeceased the younger spouse, or the distribution is based on who died last, if that can be clearly determined. It could be important to understand the laws of your province. Unless the will states otherwise, these distribution rules may not represent the deceased testator's intentions and may produce conflict.

The Last Word

The above situations emphasize the importance of having your will discussed with an estate planner or a lawyer and prepared professionally.

The chance of a fatal family accident or even one involving both spouses may be rare but it does happen. A properly prepared will increases the chances of covering as many eventualities as possible. For those left behind, this offers a considerable comfort in a time of extreme tragedy.

INCOME-SPLITTING OPPORTUNITIES

Vicki Lungu, CFP

Tax-saving strategies are always valuable, but even more so in these challenging times. The current economic climate has reduced interest rates to their lowest level in decades, creating an outstanding opportunity for long-term income-splitting through loan arrangements with your spouse or other family members.

Ordinarily, if you lend money to your spouse for investment purposes, the attribution rules will apply and you will be taxed on any income earned on the loaned funds. However, if you charge interest at a rate that is at least the Canada Revenue Agency's prescribed rate at that time (currently 1%), the attribution rules will not apply.

What is even better, you lock in the interest rate for the life of the loan. At 1%, this rate is now the lowest it has ever been — the lowest it can go — and is in effect until September 30. The rate is not expected to change for the remainder of the year but could rise after that. Therefore, this may be an opportunity for you to shift investment income to your lower-income spouse. Short on cash? Consider transferring securities.

Let us consider a couple in Ontario. John has taxable income of $150,000 and is taxed at 46%, while Mary has a taxable income of $25,000 and is taxed at 21%. John has a $250,000 non-registered portfolio that generates $10,000 taxable investment income. This results in a $4,600 annual tax bill for John.

John could simply give the portfolio to Mary. She would pay tax on

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INCOME-SPLITTING OPPORTUNITIES

investment income at the 21% rate, or $2,100, reducing the tax bill to $2,500. Unfortunately this would not work, as the income attribution rules deem that John should pay tax on the income generated by the portfolio.

However, John could sell the portfolio and lend the money to Mary to invest, charging her 1% interest on the loan. Mary would pay the tax on the difference between the portfolio rate of return and the loan rate of 1%.

John loans $250,000 to Mary at 1% prescribed rate.

Mary invests the money and pays interest: $250,000 x 1% = $2,500. This amount is tax- deductible to Mary, since the loan is for investment purposes.

Portfolio net income: $10,000 less $2,500 interest = $7,500

Mary pays tax on $7,500 at 21% = $1,575

John receives $2,500 interest from Mary and pays $1,150 in income tax.

Total family tax on the portfolio income: $1,575 (Mary) + $1,150 (John) = $2,725

If John had paid tax on the income, the tax bill would have been $10,000 x 46% = $4,600

Total savings: $1,875 per year.

This strategy may trigger capital gains or losses. Also, there are specific rules that deal with losses if your spouse buys the same securities within 31 days, so consult your tax advisor.

Lending Tips

- The loan has to be documented with a loan agreement or a promissory note that includes the loan amount, interest rate charged, terms of the repayment and the date of the loan. Both spouses should sign it.
- If considering transferring securities, keep in mind that you may trigger capital gains on transfer. Any capital losses would be denied, as your loss is considered to be a superficial loss for tax purposes.
- It is almost always better to lend cash, if possible.
- The interest on the loan must be paid by January 30 of each year the loan remains outstanding.

It is crucial not to miss the interest payment deadline, and to make sure there is proper documentation, such as a cancelled cheque, to prove the interest was paid on time. If the couple misses the deadline, that year's income and all future years' income on the investments purchased with that loan will be attributed back to the lending spouse.

This loan strategy provides immediate tax savings, as well as long-term compounding benefits, if you choose to reinvest the tax savings

If you already have a spousal loan in place and would like to take advantage of the current lower rate, you would have to repay the original loan first — you cannot simply cross the interest rate out on the promissory loan. If the investments have gone down in value, you may not be able to repay the loan in full.

You may also have to consider estate issues, such as avoiding probate tax on the loan and how the loan is dealt with in your will.

When choosing to implement such a strategy, make sure you consult your tax advisor.

CARS AND THE CONSUMER

Fabio Ventolini, CFP, CDFA

The car industry has changed considerably during the past year. Sales are way down, two major companies have filed for bankruptcy protection and tens of thousands of employees are out of work. All of this raises the question, "What does this mean for the consumer?"

Here are a few answers.

Deals: Yes, there are deals, but with inventories low, there are now fewer of them. In fact, there is typically a four- to six-week wait for a new car.

Leasing: With a lease, you are renting, not buying, a car. From a cash-flow point of view, it is the most cost-efficient way of financing a purchase. However, this assumes you turn the car over every three to four years. If you lease beyond that time period, it is normally better to buy, and borrow or pay cash.

Having said that, many companies do not offer leases anymore and even if you can obtain one, the effective cost of money is in excess of 9%. One of the reasons for this is that when you return the car, the company is stuck with a used car that it then has to sell, and in this economic environment, used cars, especially gas-guzzling SUV's, are a drag on the market.

Financing a purchase: The industry is making it more attractive to purchase a car. It is common to find 0% to 4% purchase financing on many cars and trucks and if you are looking at buying a car, this is often a good option. Keep in mind, though, you can normally obtain a better price if you finance separately, since the effective cost of the money is included in the price.

Depreciation: We all know cars depreciate in value as soon as you drive them off the lot, so when you buy your next car, you may want to consider buying higher quality, knowing that the car will last for seven years with only minor problems. Taking an extended warranty can reduce the risk of expensive repairs, however, if you can buy a good car, you should not need one. Typically, extended warranties are cash cows for dealers. You should also consider buying base models — bells and whistles are expensive. Alternatively, consider buying a used car where many deals can be had.

Purchasing: Paying cash for a car is usually the best way to go, but it may not be something everyone can do. If you need to borrow, one suggestion is to use your home line of credit. This could get you a low price at the auto dealership. Home lines of credit range from 2.5% to 3.5%. The advantage is that you own your car and you can repay the loan over a long period of time, say seven to eight years. This will help keep your payments low.

Environment: Cars raise significant environmental concerns. Consider a hybrid, which is a great car for city driving. Not only will you reduce the cost of filling up at the pumps, but you will also reduce air pollution.

TEN STEPS TO REDUCING FINANCIAL ANXIETY

Chris Snyder, CFP, RFP

It is an understatement to say that recent stock market gyrations have increased people's concern for their financial future. For many, it raised the questions, "Will I have enough money to retire?" or "Will I run out of money?" Retirement concerns are not, however, the only issues that give rise to financial anxiety. Others include the fear of being alone — either through the death of a spouse or marriage breakdown — loss of a job, sickness, retirement (forced or otherwise), going further into debt or just simply a lack of knowledge about family finances.

Such fears are often compounded by not knowing where to turn for help. Calling on a friend is often viewed as an admission of weakness or of not having "made it." While women are more likely than men to discuss their fears with others, many just suffer in silence or, alternatively, live with uncertainty, which can lead to irrational behaviour, such as excess spending or making a bad investment.

Fortunately, there are things you can do to create more certainty and that will let you take control of your finances in a logical and well thought-out manner. This is normally best done with the assistance of a financial advisor. Here are 10 steps you and, if applicable, your partner can take to address your concerns.

1. Acknowledge that you have fears and concerns and write them down. For example, you are close to retirement and you are concerned your investment management company will fail.
2. Once the fear or concern is identified, decide to do something about it.
3. Take action. Find out the real facts. Call your advisor and ask about the stability of the company. Find out what would happen if it did go down and the implications it would have for you. (Likely it would not affect your investment.) If you are not happy with the answers, decide if you want to keep your money there or move it.
4. It is always good to write down your assets and liabilities. Create a budget (there are many standard budget forms you can use) and determine how much money you need to provide your desired lifestyle. You may hate doing a budget but take heart: allocating one's income and expenses is probably the second most-disliked financial chore. Paying taxes is the first.

   If viewed positively, a budget is merely a guideline as to how you wish to spend your money. As such, it should be a happy experience. If you have not created a budget or do not know how much you spend, go over your various expenses for the past year. You might be surprised where the money goes. It may take you several months to compile this record, but the results could help you implement a much-needed change in spending habits.
5. Once you have determined how much you spend — and save — calculate how much extra you will have to save or invest
6. Next, figure out when you want to retire and how much you will need to live on when you do so. Seventy percent of today's needs in 2009 dollars is a good guideline. Then project what your current assets will grow to, increasing at a realistic rate of 6%: 2% inflation plus 4% growth annually. Add to this the savings you can make between now and the time you retire. Turn this total amount into annual income at, say, 5%.

   This is a very rough way to determine if you have enough money, although it does allow for future inflation. A professional advisor will likely have more sophisticated programs. Ask yourself, "Is this enough?" You may require some professional assistance working this out properly, particularly if you have to integrate it with a pension or other sources of income. If you are short of retirement funds, either decide how much extra you will need to save or review your income needs and the date you plan to retire.
7. If you are short, put in place an adequate savings or investment program. Professional guidance may be required, particularly with the choice and mix of investments.
8. Review your life and disability insurance to determine if there is adequate coverage to offset the loss of earning power between now and retirement. Also, make sure you (both) have a Power of Attorney in place and that your wills contain what you want.
9. Get involved. You may have to force yourself to take an ongoing interest in handling the family finances: paying the bills; understanding the tax implications of the investment and spending decisions; going to seminars and reading. All this information may be somewhat confusing at first, however, your confidence will eventually grow.
10. Try to keep money in perspective. In other words, it is nothing more than a means to a lifestyle — your lifestyle, the one that you want, not what the media suggests it should be. We see so many people who, through lack of knowledge about their finances, take extreme positions, ranging all the way from spending as if they had an unlimited amount of money — but, in fact, are always behind on their bills with nothing set aside for the future — to staying at home and not going on a nice holiday because they think they cannot afford it, when in fact they can.

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