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What is Estate Planning and why is it important?

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Your final instructions on asset distribution

What is estate planning? In simple terms, estate planning is the process where you lay out your instructions as to how your assets should be distributed. Who they are to go to, when they are to go to them and in what form. And of course, you want to do this in a very thoughtful way.

Settle quickly, with minimum cost and tax

You want to do it in such a way that it happens quickly and you minimize cost and taxes. To some people's surprise, nearly everyone has an estate. Your estate includes all of your assets. For example your home, maybe a cottage, your bank accounts, your investment accounts like an RRSP or a TFSA, a car, your personal possessions. So in my mind, estate planning is something that applies to almost everyone.

Provincial rules apply

If you die without a plan, the government implements one for you.

Dying without a will – Intestacy Rules Apply

And if you die without a will, you're deemed to have died intestate and each province has their own set of rules called the Intestacy Rules as to how your assets will be distributed. Generally speaking, your spouse will get a preferential share. Take the situation married couple but they've split and it's a very acrimonious split. They don't have a formal separation agreement. If one of them passes away without a will, the intestacy rules will state that their assets will go to that surviving spouse and that might be the last person they want to get their assets. On the other hand, many provinces don't recognize common-law spouses so if you don't have a will, your common-law partner could be shut out.

Note: The comments made in this video regarding the rights of separated spouses under the intestacy rules vary by province. It is always best to confirm your province's rules.

Minor children

Another common problem relates to minor children. When they are entitled to a share, oftentimes their share is paid into court even if there is a surviving parent and the court will administer the funds. Furthermore, when they reach the age of majority, they will be entitled to the full estate. In either scenario, I don't think it's what most people would

have wanted. In addition, you've forgone the ability to name your executors or liquidators in Québec, the ability to express your desire who you want to be the guardians of your children and to engage in tax planning. And without proper tax planning, you can significantly reduce the value that your loved ones will receive upon your passing.

Effective tax planning

Strategies like rolling over assets to your spouse on a tax deferred basis, the use of multiple wills or trusts or making charitable donations can have a significant tax savings for your estate and again maximize the value that you leave to that next generation. So in conclusion, I hope you will agree with me that estate planning is very important and like most things in life that are important, it's never too early to plan.

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