TAX MATTERS

Why you should review your beneficiaries this RRSP season

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I once asked my friend Jack how he became wealthy. He told me that, when he was young, he bought a dirty apple for 25 cents, cleaned it up until it was shining, then sold it for $1. Then he took the dollar and bought four dirty apples, cleaned them up and sold them for $4. “Jack, I had no idea you made all your money selling produce,” I said. “I didn’t,” he explained. “A month later, my uncle died and left me $15-million.”

An inheritance can change a life. And it’s all too common for families to fight over money when someone dies. Who’s getting your money when you’re gone? It’s RRSP season, so it’s a good time to review who you’ve designated as beneficiaries of your plan. And you might as well add your RRIF, TFSA, FHSA, pension plans and insurance policies to this review while you’re at it.

Here is the cautionary story of a family who ended up in court fighting over a beneficiary designation.

The story

John Morrison died in November, 2011. He was survived by his four children, and his will, which was prepared in 2002, provided for his assets to be divided amongst them. This case (Morrison Estate, Re, 2015 ABQB 769) had to do with Mr. Morrison’s RRIF.

The question that the judge had to answer was whether the RRIF was an asset that should have been part of Mr. Morrison’s estate to be divided amongst the four children, or whether it should go to the person who was named in the RRIF documentation as the beneficiary.

In 2002, Mr. Morrison named one of his sons as the beneficiary of the plan, valued at $72,683 upon his death. The other assets of his estate totalled $77,000.

The other three children were confused and upset by this inequality. To make things worse, the estate was liable to pay the taxes on the RRIF, which further reduced what the other three were inheriting.

The court held that beneficiary designations on registered plans and life insurance policies are subject to a presumption of a resulting trust where there is a "gratuitous" and "unexplained beneficiary designation." A resulting trust is a situation that occurs when the legal owner of property is not the beneficial owner. Rather, the property is held by the legal owner as trustee for another person (or more than one). In this case, the RRIF assets were considered to be held in a resulting trust by the son who was designated as beneficiary, potentially for the benefit of all four children.

When a resulting trust is presumed, it's up to the named beneficiary to rebut the presumption. In this case, the son who was designated as beneficiary had to prove that it was his father's intention to make this gift of the RRIF to him. He was able to do this by pointing out that he had a close relationship with his father and assisted his father when his mother died in 2002.

In the end, the judge ruled that the son could keep the RRIF assets: "In the absence of evidence to the contrary, it should be presumed that [Mr. Morrison] knew what he was doing." The judge did note that it was unfair for the other three children to also be disadvantaged by having to pay the taxes on the RRIF. So, the son who inherited the RRIF had to pay the taxes related to the plan.

The moral

This RRSP season, review the beneficiaries you've designated for your registered plans, and ask yourself whether you've named anyone who might cause others in your life (perhaps other heirs) to question the decision. If there could be any doubt about your intentions, it could be a recipe for a legal battle after you're gone.

There are other court cases that have dealt with the same presumption of a resulting trust, and which have had differing outcomes. In the case Neufeld v. Neufeld (2004) BCSC 25, the Supreme Court of British Columbia was asked to determine the proper beneficiary of a RRIF. Two brothers went to court because one was designated as beneficiary of their sister's RRIF, and the other brother believed her intention was to leave the RRIF to both of them. Based on the facts, the court agreed that the two brothers should share the RRIF.

It's critical to make your intentions known to your family – in writing – if your beneficiary designations may be difficult for your family to understand, or if they are gratuitous in favour of one or more people over others.

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