

Death, fees, and taxes

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In Canada when you die for taxes purposes, you're deemed to have disposed of all of your property. So, for non-registered assets, you could trigger a capital gain or capital loss. For example, with the stock portfolio mutual funds, segregated funds and even real estate. In addition to that, the fair market value of your RRSPs and your RRIFs at death are also brought into income.

There are a couple of exceptions, for example the principal residence exemption or if you roll over assets to a spouse, but otherwise taxes at death can generate a huge liability for your estate and your beneficiaries. In addition to taxes, there's also something called probate fees in most provinces.

Probate is the process where the deceased legal representative also known as the executor or liquidator in Québec submits the will and an inventory of assets to the court and by doing that, the court confirms that this is in fact the last will and testament of the deceased and also confirms the authority of the executors. Now the court doesn't do this for free. In return for the court's validation of the will and the authority of the executors they charge you a fee. In Ontario, British Columbia and Nova Scotia, that fee is approximately 1.5%. So, for every \$100,000 dollars that flows through your estate, your estate will pay probate fees of \$1500 dollars. You can imagine for significant estates that the cost of probate fees can rise quickly.

It's also important to point out that if you die without a will and you're deemed to have died intestate, you're still subject to the probate process. The probate process can be a lengthy one. For family members in need of funds, these delays can cause serious financial problems and stress. This is all at a time when they're grieving and dealing with your loss. Another consequence of making application for probate that is not as well known is that when you submit your will for probate, it becomes a matter of public record. Anyone can go down to the courthouse, pay a nominal fee and see a copy of your will. They can see who you have assigned as executors of your estate. They can see who you designated or expressed an interest as being the guardians of your children. They can see who the beneficiaries of your estate are. Now for some people, privacy isn't a concern but for others, it's right there at the top of the list.

People often look for estate planning strategies where their assets can be passed on to the next generation avoiding their estate in their will. Some of these strategies include joint tenancy with writer survivorship, naming a beneficiary on an RRSP, a RRIF, a TFSA, a life insurance policy, a segregated fund contract. You can also use multiple wills or trusts.

The important thing to keep in mind here is always enlist the services of a lawyer because if you make a mistake, the cost or consequences can be severe. When I think of probate planning, I think of something that was told to me many years ago that I found very helpful: don't let the probate tail wag the dog. Thank you and good planning.

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In Saskatchewan the advantage of preserving a client's confidentiality does not apply as jointly held property and insurance policies with a named beneficiary are identified on the application for probate despite the fact that these assets do not flow through the estate and are not subject to probate fees. In Quebec, the probate process and the probate fees (which are minimal) only apply to non-notarial wills. © 2021 Manulife. All rights reserved. This material is the property of The Manufacturers Life Insurance Company (Manulife) and is under limited license. It may not be copied, transmitted or used without Manulife's express written approval. Manulife is not responsible for any damages or losses arising from any use of this information. This media is for information purposes only and is not intended to provide specific financial, tax, legal, accounting or other advice and should not be relied upon in that regard. Any amount that is allocated to a segregated fund is invested at the risk of the contractholder and may increase or decrease in value. Manulife, Manulife Investment Management, the Stylized M Design, and Manulife Investment Management & Stylized M Design are trademarks of The Manufacturers Life Insurance Company and are used by it, and by its affiliates under license.

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