



Estate Planning Essentials for Canadian Seniors

By Wei Woo

Estate planning is a vital process for seniors in Canada to ensure their assets are protected, their wishes are respected, and their loved ones are cared for after they pass away or if they become incapacitated. While many Canadians understand the importance of having a will, estate planning involves a broader set of tools and considerations that can significantly impact the financial security and legacy of seniors. This article provides an overview of estate planning basics tailored for Canadian seniors and highlights some interesting and often overlooked aspects of the process. While this article is not legal advice, it provides potentially important discussion points working with your Financial Advisor or Investment Advisor.

What Is Estate Planning?

Estate planning is the process of organizing the management and distribution of your assets and affairs during your lifetime, in case of incapacity, and after your death. It involves creating legal documents that specify how your property should be handled and who will make decisions on your behalf if you cannot.

Core Components of an Estate Plan

A comprehensive estate plan for seniors in Canada typically includes the following elements:

- **Last Will and Testament:** This is the fundamental document that outlines how your assets will be distributed after your death, names an executor to administer your estate, and can designate guardians for minor children or dependents.
- **Power of Attorney:** This grants a trusted person the authority to make financial and legal decisions on your behalf if you become incapacitated. There are generally two types: one for financial matters and one for healthcare decisions.

- **Living Will (Advance Care Directive):** This document specifies your healthcare preferences, such as whether you want life-sustaining treatments or organ donation, relieving your family from making difficult decisions during medical emergencies.
- **Beneficiary Designations:** Many assets like registered retirement accounts (RRSPs, RRIFs), life insurance policies, and investment accounts allow you to name beneficiaries directly, which can bypass the will and probate process.
- **Inventory of Assets:** Seniors should compile a detailed list of all assets, including bank accounts, investments, property deeds, insurance policies, and digital assets. This inventory helps executors and beneficiaries understand the full scope of the estate.

The Role of the Executor

Choosing a responsible and trustworthy executor is crucial. This person will carry out the instructions in your will, manage the estate, pay debts and taxes, and distribute assets to beneficiaries. It is advisable to inform the chosen executor in advance to ensure they are willing and prepared to take on this responsibility.

Interesting and Often Overlooked Aspects of Estate Planning in Canada

1. The Deemed Disposition Tax and Capital Gains

Canada does not have a traditional estate tax like the U.S., but it imposes a "deemed disposition" tax at death. This means that all capital property is considered sold at fair market value immediately before death, triggering capital gains tax on any appreciation. This can result in a significant tax bill on the final income tax return.

However, assets transferred to a surviving spouse or held in a spousal trust can defer this tax until the spouse's death. Proper planning can minimize the tax burden on your estate and maximize what your heirs receive.

2. Avoiding Probate Fees

Probate is the legal process that validates a will and authorizes the executor to distribute assets. In Canada, probate fees vary by province and can be costly, sometimes amounting to over 1% of the estate value. Using trusts, joint ownership with rights of survivorship, and beneficiary designations can help seniors avoid or reduce probate fees, speeding up the transfer of assets and saving money.

3. Long-Term Care Planning

Many seniors overlook the potential costs of long-term care, such as nursing homes or assisted living facilities. Including provisions in the estate plan to cover these expenses—through savings, insurance, or trusts—can protect the estate from being depleted by care costs and ensure seniors receive the care they need without burdening family members.

4. Digital Assets

Digital assets such as online banking, social media accounts, cryptocurrencies, digital photos, and emails are increasingly important. Seniors often forget to include instructions and access information for these assets in their estate plans. Without this, valuable or sentimental digital property can be lost or inaccessible to heirs.

5. Funeral and Burial Wishes

Pre-planning your funeral and burial arrangements can relieve your family of difficult decisions and financial burdens during a stressful time. Seniors can choose to pre-arrange or pre-pay for funerals, or at minimum, clearly communicate their wishes to loved ones. This aspect is often neglected but can provide peace of mind.

6. Charitable Giving and Legacy Planning

Incorporating charitable donations or establishing charitable trusts in your estate plan allows you to leave a lasting legacy and potentially reduce taxes. Many seniors find fulfillment in supporting causes they care about, and these gifts can be structured to benefit both the charity and the estate tax situation.

7. Regular Review and Updating of the Plan

Estate planning is not a one-time event. Life circumstances such as marriage, divorce, births, deaths, or changes in financial status require seniors to review and update their estate plans regularly to ensure they reflect current wishes and legal requirements.

Practical Steps for Seniors to Review Their Estate Planning

1. **Take Inventory:** List all assets and liabilities, including financial accounts, real estate, personal property, and digital assets.
2. **Define Objectives:** Consider what you want to achieve with your estate plan, including care preferences, asset distribution, and legacy goals.

3. **Choose Trusted Advisors:** Consult an estate lawyer or notary (especially in Quebec and BC), financial planner, and tax advisor to help create a plan tailored to your needs and provincial laws.
4. **Draft Key Documents:** Prepare your will, powers of attorney, and healthcare directives with professional guidance to ensure legal validity and clarity.
5. **Communicate Your Plan:** Discuss your wishes with family members and your executor to avoid surprises and conflicts later.
6. **Review Periodically:** Update your estate plan as your circumstances or laws change.

Conclusion

Estate planning for seniors in Canada is a comprehensive process that goes beyond simply drafting a will. It involves careful consideration of legal documents, tax implications, healthcare preferences, and personal wishes. Seniors who engage in thorough estate planning can protect their assets, minimize taxes and probate fees, ensure their healthcare and funeral wishes are respected, and leave a meaningful legacy for their families and communities.

By addressing both the common and less obvious elements—such as the deemed disposition tax, digital assets, and long-term care planning—Canadian seniors can create a robust estate plan that provides peace of mind and security for themselves and their loved ones.

If you want to explore post-retirement goals aimed at creating healthy and balanced financial strategies, please contact me at wwoo@researchcapital.com.

Wei Woo, CIM, EPC Investment Advisor

Research Capital Corporation
3481 Allan Dr. SW
Edmonton, AB, T6W 3G9
Office: 780 - 460 - 6628
Cell: 780 - 299 - 0760

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