WILLPOWER—TO HAVE OR NOT TO HAVE?

Driving without a seatbelt…boating without a life vest… dying without a will…What do these things have in common? You're right if you said they'd likely leave your family hurt and bewildered.

Let's focus on *your* will. Do you have one? If you said no, you're not alone! A CIBC poll[1] found that almost half of respondents hadn't created a will—the most basic element of an estate plan.

"If you die intestate (without a will), you're basically letting the government write your will," says Jamie Golombek, Managing Director, CIBC Tax and Estate Planning. Imagine the reaction of your loved ones if this happens.

No will, no power—Bill and Susan's story*

Your estate is administered in accordance with provincial law if you die without a will. That means, the legislation sets out what happens to your estate. Through Bill and Susan's story below, find out what could happen when someone dies intestate and without proper estate planning.

Their situation

Bill and Susan are married and live in Ontario with their children, 18 year-old Emily and 13 year-old Tom. The family hasn't done any estate planning. They have $1.1 million in assets held in Bill's name; their home is valued at $600,000 and they have $500,000 in investments.

Surprises

If Bill doesn't have a will, Susan might be surprised that she wouldn't be entitled to all of Bill's assets after his death. Under Ontario's provincial intestacy laws, here's what would happen:

- Susan would receive the first $200,000 of Bill's estate, known as the "preferential share" (this varies widely by province).
- The remaining $900,000 would be divided one-third to Susan ($300,000) and the balance equally among the children.
- Susan's maximum share of the estate would be $500,000.

Susan's maximum share of the estate wouldn't even be enough for her to retain ownership of the family home. Emily would receive $300,000 outright. Given that she is only 18, she may not be prepared to responsibly manage that kind of money. Tom's $300,000 inheritance might have to be paid into the court to be managed by a government office until he turns 18. Susan might also be surprised to learn that she wouldn't automatically be named as the estate administrator, or the trustee of Tom's funds. She'd have to apply to the court for these roles.

Unplanned expenses - Taxes and fees

"To add to the estate nightmare, taxes and probate fees could further erode the inheritances," says Golombek. Taxes on the investments could be as much as $268,000 (if Bill is taxed at the highest marginal rate of 53.5% and holds RRSPs that aren't rolled over to qualified beneficiaries). Probate fees, where applicable, could also amount to $16,000 (estimated at the Ontario Estate Administration Tax rate of approximately 1.5% of the $1.1 million estate value).

"Fortunately, most of these pitfalls are easy to avoid by preparing and carrying out an estate plan," adds Golombek.

Some estate planning ideas for Bill and Susan

To help avoid the nightmare scenario, as part of his estate plan, Bill may:

- Name Susan as the primary beneficiary in his will. By taking advantage of the spousal rollover, this could allow income taxes on the investments and RRSP, amounting up to $268,000, to be deferred until she disposes of the assets or dies.

- Name Susan as a direct beneficiary of his RRSPs and transfer their home into joint ownership. This eliminates probate fees on these assets for additional savings of $16,000.

- Name Emily and Tom as contingent beneficiaries in his will. This means his children inherit if his wife doesn't survive him.

- Direct the children's inherited assets into a trust or trusts for planned or controlled distribution.

- Add insurance to supplement his estate. This might better provide for his family's needs.

With a little planning and a formal will in place, you help avoid surprises, and protect your estate and your loved ones. We're always available to talk to you about wealth strategies that can maximize your estate value. Together, we can also work with our expert CIBC partners to address your estate planning needs. Reach out to us at any time to discuss

[1] Details about the CIBC poll, which was conducted in 2012 when this report was first published, are available at http://www.newswire.ca/news-releases/cibc-poll-nearly-one-third-of-baby-boomers-dont-have-a-will-510205181.html.

** For illustrative purposes only.*