

Strategies for Minimizing Probate Fees including Provincial Probate Fee Schedule

- **Joint ownership of property**

When property is registered as joint with right of survivorship, it bypasses the estate and transfers directly to the survivor. However, there are drawbacks and issues to consider when registering assets jointly with an individual who is not a spouse. The assets become exposed to the creditors of the joint owner, they could become part of the equalization claim in a marriage breakdown, and they can be used as collateral by the joint party.

- **Gifting assets before death as an outright gift or through an Inter vivos trust**

It is possible to reduce assets subject to probate by gifting them to your beneficiaries before death. This allows you to witness the enjoyment the asset brings, however, there may be tax consequences to assess.

An alternative is to establish an inter vivos trust. Your beneficiaries may or may not earn income from the assets and/or receive capital from the trust while you are still alive, but it will help with probate fee planning. The drawbacks to this strategy are that you may realize capital gains when the assets are transferred to the trust, the income earned in the trust is taxed at the highest personal income rate, and you no longer have access to the assets.

- **Alter Ego Trusts and Joint Partner Trusts**

One of the main benefits of these trusts is the avoidance of probate fees on the assets within the trust upon your death. For this strategy to work, you must be at least 65 years of age and have be entitled to receive all of the income from the trust during your lifetime. With an alter ego trust, you must be the income beneficiary, whereas the income beneficiary of a joint partner trust must be both you and your spouse. Unrealized gains on assets that are transferred into these trusts are not subject to income tax in the year of the transfer.

- **Naming beneficiaries**

It is recommended that a beneficiary should be named whenever possible on registered products, pension plans or life insurance policies. When this is done, these assets may generally bypass the estate and be distributed directly to the named beneficiary.

Please note that any of these strategies should be discussed with your family, as well as your account, and lawyer. Implementing any of these strategies without the guidance of a professional may cause other unforeseen problems for you or your executor.

