



The Role of the Family Meeting in Estate Planning

Common issues that arise in families upon the death of a parent (or parents) are questions as to the parents choice of Executor, the distribution of personal items with sentimental value, the treatment of the family cottage or vacation property, and any unequal division of the Estate among beneficiaries, whether actual or perceived.

Clear, effective and open communication as to one's Estate plan can go a long way to reducing conflict and resentment in a family after death. One way of achieving this is through the family meeting. The family meeting is an opportunity to communicate to your family the reasons for the decisions you have made in these and other areas.

Experts suggest that a family meeting should have a formal agenda so that the participants realize that it is not a social function. Parents who plan to hold a family meeting with their adult children should consider and communicate their goals for the meeting ahead of time. They will also want to consider whether to include their children's spouses in the meeting. If spouses are not invited, explain why. During the meeting, it is important for parents not to simply talk at their children, but to invite and actively listen to feedback. (Whether that feedback ultimately results in changes to the Estate plan, is of course, up to you).

Many people consider the appointment of Executor to be an honour, and are hurt when they learn they were not chosen. Explain to your children the reasons for choosing one (or more) of your children over the other or others. It could be something as simple as geography: while certainly not impossible, there is no question that having an out-of-province Executor is more difficult. Perhaps one of your children is single while the other has a full-time job and three children under the age of five. Therefore, the

single child is simply more available to devote the time required. Having several Executors can be unwieldy which is why you only selected one or two. Having this discussion can reassure your children that your choice does not mean you favour one child over the other, or that you believe one child to be less capable.

Resentment can also arise when the named Executor proposes to take compensation for administering the Estate. If you expect your Executor to take compensation (and I believe you should), explain why. Many children do not understand the role and responsibilities and the time commitment that is required of an Executor. Executors also risk personal liability for any mistakes that are made. These are all good reasons for the Executor to be fairly compensated for the work performed.

If you are leaving a particular item that may have sentimental value to one child, discuss that. You may be surprised to find that child is not particularly interested in it and is happy for it to go to another child who has always desired it. If, on the other hand, you have simply given the Executor full discretion to distribute your personal and household items, explain why.

As indicated in a prior article in LegalEase, the family cottage or vacation property is rife with opportunity for conflict. A thorough discussion about the different options for dealing with the property is recommended. Is it your intention that one or more of the children receive the cottage, and that you will equalize this gift with other assets going to the other child(ren)? Why? One child may feel the cottage should go to her as she uses it the most and has put time, effort and money into its upkeep. The other children may feel that is unfair as they would use the



cottage more if they didn't live so far away; and they would be happy to help with the maintenance and financial upkeep of the property but are unable to do so for economic reasons. Or perhaps you have decided the cottage should be sold (with or without the children having right of first refusal). Either way, chances are there will be capital gains tax payable on the cottage. Is that to be paid by the child or children who receive the cottage or by the Estate? It may even be preferable to transfer the property before death. These are all points for discussion.

There is really no limit to the items that can be reviewed at the family meeting. It may even be necessary or desirable to have a further meeting or meetings. It is advisable to have notes taken or minutes kept. Of course, it is always recommended to ensure that the Estate plan, once conceived, is properly documented through a well-drafted Will, or perhaps even the use of Trusts.

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