

Personal Planning

JUNE 2003

You Can Take It With You: Protect and Preserve Your Estate

For years, corporations have trusted Goodmans to handle sophisticated transactions ranging from high-profile mergers and acquisitions to complex share capital reorganizations. Goodmans is also an established leader in developing creative methods to help individual clients achieve their estate planning goals, offering comprehensive and practical advice on a range of complex issues surrounding personal wealth management.

Did You Know? Your Current Tax Plan May Be Obsolete

- In the late 1990's, because corporate dividends were taxed more favourably than capital gains, personal planners tried to ensure that the majority of their clients' investment income would be derived from dividends.
- Amendments to Canada's *Income Tax Act* in February 2000 have rendered many such tax plans inefficient: as a result of the amendments, capital gains are now the more tax-efficient form of personal investment income.

Your Family May Be Required To Pay Up To 1.5% of the Value of Your Assets to the Government

- The Province of Ontario currently levies an "estate administration tax" (formerly called a probate fee) of between 0.5% and 1.5% of the value of all assets passing through a deceased person's estate.
- Special designations and planning techniques can be used to ensure that the proceeds of your life insurance policies fall outside the scope of the taxing legislation.
- The federal government recently sanctioned the use of two new estate planning vehicles — "joint spousal or common-law partner trusts" and "alter ego trusts" — into which persons 65 years of age or older may transfer assets without attracting negative tax consequences. Such trusts can be used to minimize estate administration tax and to provide for the management of your assets should you ever become incapacitated.

Your Current RRSP Designation May Be Insufficient

- Most standard RRSP designation forms provide only enough room to name one beneficiary. Should your sole designated beneficiary not be alive at the time of your death, your RRSP will automatically pass to your estate and be subject to the estate administration tax discussed above.

THE UPDATE

- A properly drafted will can be used to create a flexible RRSP designation including several beneficiaries, which may help your estate avoid unnecessary taxation.

Annual RRSP and RPP Contribution Limits Have Been Increased

- The Federal Budget released on February 18, 2003 proposes to raise registered retirement savings plan and registered pension plan contribution limits to \$18,000 over four years and to index these new limits. (The RRSP limit will be increased to \$14,500 for 2003, \$15,500 for 2004, \$16,500 for 2004 and \$18,000 for 2005.)
- Proper planning can help you ensure that you obtain the maximum possible benefit from these new limits.

Your Current Will May Need To Be Reviewed

- In Ontario, unless one of two special statutory conditions is met, a will is revoked by marriage.
- If your will has not recently been updated, the provisions contained therein may not reflect your current personal and/or financial status. Out-of-date wills can create serious legal problems for loved ones.

You Might Not Be Able To Direct Where Your Assets Go When You Die

- Property that is held jointly passes directly to the surviving owner(s) when one owner dies. Therefore, it is impossible to transfer jointly-owned property by will.
- Ontario legislation enables a surviving spouse to make a claim against the deceased spouse's estate for support and/or equalization of "net

family property". Proper planning can help ensure that your property is distributed in a tax-efficient manner and in accordance with your wishes.

The Government May Take Over Management Of Your Property If You Become Incapacitated

- Under provincial legislation, the Province of Ontario (represented by the Office of the Public Guardian and Trustee) may automatically become the guardian of a person's property when he or she is assessed and certified to be legally incapable of managing his or her own affairs as a result of illness, injury or old age.
- A properly drafted power of attorney can give the person(s) of your choice the legal right to take control of and manage your assets, should you become incapable of doing so yourself.

Goodmans' Personal Planning Practice Group is comprised of experienced lawyers knowledgeable in the areas of tax, estate and succession planning who would be pleased to discuss and help you achieve your personal planning goals.

Personal Planning Practice Group

Patricia Robinson 416.597.4144
probinson@goodmans.ca

Maureen Berry 416.597.4287
mberry@goodmans.ca

Ann Elise Alexander 416.597.4182
aealexander@goodmans.ca

Jana Steele 416.597.6274
jsteele@goodmans.ca

Tony Lalonde 416.597.5902
tlalonde@goodmans.ca