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Tips and Traps for Handling Estates

Here are some common TIPS Canadians should consider when assisting family members with handling their financial affairs while alive. And some common TRAPS that may occur once an Executor is working on distributing the Estate assets to the heirs.

It is a common practice to have all of Mom's or Dad's bank accounts set up in joint name with an adult child. This allows the child to clear out the bank accounts when Mom or Dad passes, and to avoid Probate (Letters of Administration etc.).

However, this can lead to questions about how funds are handled and whether the heirs received the correct distributions - especially if there are several children or heirs involved.

TIP: Check with your financial institution regarding the account balance level where they would waive the requirements for Probate. This will vary by financial institution, and likely at the Branch level as well. It can often be in the \$10,000 - \$25,000 range.

The use of a Power of Attorney can be another tricky area. When you present a POA to your family member's financial institution, they have no way of knowing if it is being properly implemented. Many banks are now requiring that a third-party assessment of the Parent (or person who will be managed

under a POA) prepare a report to verify that the POA is being implemented legitimately.

TRAP: Once a POA is in place, many changes may no longer be allowed, such as the opening of new accounts, signing off on new mortgage or reverse mortgage arrangements, changes in investment holdings or the purchase of new investments, or revising or changing a Will, etc.

When a family member dies, all financial accounts are frozen as of the date of Death. But many financial institutions, even when requiring a Probated Will, may make exceptions and allow withdrawals to help pay for items such as funeral expenses and Probate court fees.

TIP: Present the financial institution with invoices for the cost of funeral expenses and other necessary Estate costs, such as Court Probate fees, and it is likely the financial institution will allow payment from the Estate assets.

Deathbed Will changes are often done to update the individual's new goals. A recent situation arose where a client was diagnosed with cancer and given days to live. The client had his lawyer make changes to his Will while he was still mentally competent.

TRAP: If beneficiary designations on assets such as registered accounts, RRSPs, RIFs, TFSA, home title registration etc. are not adjusted to reflect changes in a will, then problems may arise after Death. Many financial institutions will follow the beneficiary designations on their records which may not be aligned with the very latest will instructions.

Therefore, Wills need to be coordinated with any applicable designations on a range of assets. In some cases, the Will's instructions will prevail and in other cases, it may not.

Many banks today are avoiding setting up an Estate bank account. This trend may be explained by the usual Regulatory hassles and the fact that the bank branch sometimes fails to retain the assets.

TRICK: In the absence of an Estate bank account to handle deposits after the Date of Death, or for cheques made out to the "The Estate of", you can speak to the bank Branch Manager and they may do a manual intervention to deposit those cheques into the regular bank account of your family member.

One of the challenges of dealing with the Estate of a loved one, is getting a proper reporting and disclosure from the Executor. We sometimes hear stories of Executors who do not provide a copy of the Will to the heirs or fail to prepare a proper Balance Sheet of Assets and Liabilities and so on.

While these situations are frustrating, heirs in most provinces have the option of filing a complaint with the Guardian's Office or Ombudsman's Office to enforce proper performance of the duties by the Executor. An Executor should know what their Duties and personal financial liabilities are if a government oversight authority is brought in to oversee an Estate. Ultimately, the Estate will pay the costs leading to less for all the heirs.

There are many more estate planning tips that we can cover in this one article. [Call our office today](#) [1] with your Estate handling questions.

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