Estate Plans Unravelled

Webinar Transcript

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Slide: 1 Video time: 00:00:08-00:00:15 Speaker 1 (Sara Hillier)	Thanks very much Carrie. I appreciate the warm intro and happy to be here with everyone today,...
Slide: 2 Video time: 00:00:18-00:0056 Speaker 1 (Sara Hillier)	... hosting another webinar, on some of the important considerations, when doing your estate plan. Without going into too much detail, I do just want to give a quick overview of who ClearEstate is, and why we do these webinars. ClearEstate, essentially, is a modern solution for estate and trust services and we use a platform that we've developed, to help make the processes easier and more efficient for the families that we support, and we deal with both the estate planning as well as an estate settlement.
Slide: 3 Video time: 00:00:57-00:01:25 Speaker 1 (Sara Hillier)	Myself, I've been in the estate and trust industry for many years. I do have my TEP, Trust Estate Practitioner, and Member Trust Institute, in terms of designations and technical training but overall, I always want to highlight that my goal is to make these sometimes highly technical topics, approachable for people and provide...
Slide: 4 Video time: 00:01:26-00:01:45 Speaker 1 (Sara Hillier)	... sensitive and practical guidance for everyone. The purpose of today's webinar and kind of the learning outcomes we're hoping you'll get out of it is to understand a bit about some common pitfalls in estate, planning using real life examples, and where

	you can go to get help with this. So hopefully, this helps you in thinking about your own...
Slide: 5 Video time: 00:01:46-00:03:44 Speaker 1 (Sara Hillier)	... estate planning goals and needs. Now, just to kind of level set here, I wanna make sure we cover, what exactly is an estate plan and why you actually need one. Of course, the simplest definition is really just arrangements for what happens with your assets, when you pass away or become unwell. Also, I should add, with your person as well, because your personal care needs will be addressed through an estate plan as well. The documents that are typically involved are your will; a Power of Attorney for property; a Power of Attorney for personal care. So property, dealing with your assets and personal care dealing with you as a person and then sometimes there's an additional document which dictates specific healthcare directives and also in some cases there may be a living trust, or what we call an inter vivos trust involved as well. I'm gonna add that in addition to these documents, there's also beneficiary designations that you may have made on different types of accounts, and there's other factors at play here, but these are the core documents that we're talking about when we talk about an estate plan. Now, the purpose of doing a comprehensive estate plan, or why you need one is because

	you want to develop efficiencies and savings typically. You want to avoid expenses that you don't need to pay if you've done proper planning, and perhaps more importantly, you want to customize your estate plan based on your circumstances and your loved one's circumstances and the goals you have around estate planning. And finally, of course, I think mostly everyone I've ever talked to is always striving for simplicity, for their family members and their loved ones, in their estate settlement
Slide: 6 Video time: 00:03:45-00:03:54 Speaker 1 (Sara Hillier)	Now, I just want to highlight the differences between having a will, and actually having a comprehensive estate plan.
Slide: 7 Video time: 00:03:55-00:05:08 Speaker 1 (Sara Hillier)	So, a will is the document where you can appoint an Executor who's going to be responsible for your estate settlement and they carry some important responsibilities. It is critical that you actually consider that and appoint them through a will, and then you're also able to dictate who will receive your assets from your estate. Now, it doesn't necessarily dictate the distribution of all your assets because if you have joint assets, or if you have direct but beneficiary designations, these may not be dealt with actually in your will. It doesn't include all the information that your Executor will actually need when the time comes. You don't list out everything typically

	in your will, unless you're specific gifting specific assets, you might list those. Now, it also doesn't necessarily account for strategies to optimize your estate value, and particularly when a will is super basic,. and you haven't really done anything except appoint your Executor and put in that distribution. It may not include strategies that you might want to consider, and it's really not a complete estate plan all on its own.
Slide: 8-9 Video time: 00:05:09-00:06:47 Speaker 1 (Sara Hillier)	Now, a complete estate plan is also going to include an inventory of all your assets and liabilities. This is information that you know you'll want to keep track of during your lifetime, but also that your Executor will very much need, and it's not always easy to collect that information if they don't know where to go to find it. It also includes any other pertinent information documents, like you know your birth certificate, your marriage certificate, your id, like different things and where to access those things is also considered part of a comprehensive estate plan. The overall plan should consider your specific goals based on your specific circumstances and, I'll add, and your family circumstances as well, your beneficiaries' circumstances and what's going on in their lives. Now, it also allows for important conversations to occur, either, perhaps, between spouses or between you and your beneficiaries, or if you have charitable

	beneficiaries, discussions around exactly what you want to have happen with a legacy you might be leaving. Any consideration for whether or not a trust might be appropriate, in your circumstances, and it also will typically significantly cut the amount of time, fees and potential complications and disputes, or family strain and conflict that you would have potentially down the road. Allows your family really to focus on healing, which is what we want them to be able to do when they're grieving, of course.
Slide: 10 Video time: 00:06:48-00:07:12 Speaker 1 (Sara Hillier)	Now let's pause for a sec, and we'll do a quick poll. So, momentarily you should see a poll question pop up on your screen. And that question is, do you actually have a will and Power of Attorney documents in place currently? And I'll give you guys a minute to answer yes or no to that. And we'll see what we end up with.
Slide: 11-12 Video time: 00:07:13-00:07:55 Speaker 1 (Sara Hillier)	Okay, wonderful. So, it looks like, about 88 percent of you actually have a will and Power of Attorney document in place. That's a fantastic number actually. Really glad that this group, you guys are ahead of the curve for sure. In general, typically, what we see in studies conducted are that only about 48 percent of Canadians have a will in place. Of course, that trends upwards as we get older, because we tend to prioritize getting those estate planning documents done a little bit

	more as we age, of course. However, obviously, you guys are, you know well, on your way to success in your estate settlement
Slide: 13-14 Video time: 00:07:56-00:08:55 Speaker 1 (Sara Hillier)	by having a will and power of attorney in place. That's great. A follow up question to that is how many of you feel that your plan is up to date? So, you should see that pop up. You can answer Yes, no, or I'm not sure. And some of the highlights, around whether or not it's up to date, is does it successfully still include the intentions you want for your distribution? Are your representatives correct, your Executor, your Powers of Attorney, etc.? Is there anything that's happened new in your life that hasn't been factored in? Those are all important questions. Okay, so this is a little bit more split. We have about 30 percent of you who feel your plan is up to date. 48 percent of you are saying, no, in fact, it's not up to date, and 21 percent of you are not sure. So this is actually close to...
Slide: 15-16 Video time: 00:08:54-00:09:23 Speaker 1 (Sara Hillier)	...what we see typically, which is that, among the folks who have a will, only about 35 percent of them actually feel that it is up to date. And of course, we understand that's often because you've done your will, maybe several years ago, a lot transpires as time passes. You have marriages, divorces, births,

	and deaths, and all of those things. So, lots of folks may have a will, but like some of you guys, It's not currently up to date.
Slide: 17 Video time: 00:09:24-00:10:01 Speaker 1 (Sara Hillier)	Okay, so now we're gonna dive into some case studies. And as we go through them, I'm hoping to highlight, I'm not meant to go into a lot of technical detail, but just to highlight some of the ways things can really go wrong with a plan and in the actual results, in the settlement. I do wanna note that some of the questions we received which were great questions are addressed in some of the case studies and some of the ones that aren't, we may address at the end and or reach out to you to speak to you further about it.
Slide: 18 Video time: 00:10:02-00:10:29 Speaker 1 (Sara Hillier)	So we'll start with the Florida property. So, in this case we're talking about Frank. Frank lives in Vancouver, and he has 3 adult children, and several grandchildren as well. They all live in Canada, but he actually splits his time between his home in Vancouver and a recreational property in Florida, and his will, which he did in Vancouver, which is where he resides, leaves everything to be divided equally between his children.
Slide: 19 Video time: 00:10:30-00:12:49 Speaker 1 (Sara Hillier)	It's very common for Canadians to have secondary properties in the US, particularly the warmer climate states. And of course, when Frank passes away, at this time, his

	children actually realize that there are separate estate settlement requirements in BC versus Florida. That’s standard. Every jurisdiction has its own rules and regulations around estate settlement, and in fact, probate or a probate process will be required in both jurisdictions. And additionally, because Frank did have his will in BC, and when you do a probate process, typically, you have to submit the original will, and there's only one original, to the court in order to facilitate that probate process. So, what that means is the probate process in Florida will actually have to wait, and we refer to it as an ancillary probate process, which basically is like a secondary probate process, not the main probate. The main probate is gonna be in BC, but that BC Probate process has to be completed before they can actually proceed with the Florida probate process. And in addition to that complication, the Florida will needs a local representative of the estate, and they have to actually,carefully consider whether the BC will, will be acceptable in Florida, and does it comply with the regulations in Florida to execute a will as well. So, the result here is that there's significant delays in dealing with the Florida property, and in this case this costs additional expenses for months and months, until its eventual sale. And now, this property is not being used because it was a recreational property. They don't really have the authority

	to do anything with it, because they don't have probate and so they do deal with things as quickly as possible, but at the end of the day they eventually, when they have the right authority to sell the property, they found a local representative to do that. They're now selling the property at an inopportune time in the market,...
Slide: 20 Video time: 00:12:50-00:13:35 Speaker 1 (Sara Hillier)	...reducing the overall value of the estate. So, I think here, the lesson is really that, it's very critical to consider where your assets are actually located when you're doing your estate plan and you need to think about how this will actually impact its settlement. In this case Frank and his family could actually have benefited from him, doing a separate will to deal with the Florida assets, so that he could have named an appropriate representative that would qualify to apply for probate there and and carry out those necessary steps immediately, rather than having this big delay and kind of his family, not really knowing what to do.
Slide: 21 Video time: 00:13:36-00:14:30 Speaker 1 (Sara Hillier)	Our next case study. This is a common question that I get asked actually, around the location of the executor. So, this is about Nancy and Paul. The story is about an executor abroad. Now, Nancy and Paul, they live in Ontario. They have 2 children and they have some minor grandchildren as well. Now, both of their children are actually located abroad, having successful careers

	and very busy doing their thing in Amsterdam and New York. Now Nancy and Paul have appointed their son Trevor, who's in Amsterdam as their executor. Their estate's worth approximately 2 million dollars, and their will does include some specific gifts for their grandchildren, because they wanted them to receive something right away, and the balance of their estate being divided equally between ...
Slide: 21 Video time: 00:14:31-00:17:46 Speaker 1 (Sara Hillier)	... Trevor and Claire. Now some of the issues that arise in their estate settlement are that after Nancy and Paul pass away, there are actually some complications with Trevor being a non-resident executor. The first one is that when Trevor goes to apply for probate, the court is gonna require a bond. Technically, in many jurisdictions, the court can require a bond in any event, but in particular, they require a bond, for when an executor is located in a different jurisdiction, and the reason for that is if a non-resident executor were to act inappropriately with the estate funds, then there would be a little recourse for the beneficiaries, and the court, if that executor was not actually located in the jurisdiction. Right? So, they require a bond which means Trevor has to go and have a third party secure him in acting as the representative of the estate. The bond is often set at the entire value of

	the estate, or sometimes even double the value of the estate and it's difficult to obtain and secure and it costs a lot of money, so causing delays, etc., etc. Now, the other issue, which is a tax issue, is that once someone passes away, their estate is technically considered to be resident from wherever it is managed from. So, if you have an executor or trustee who's located in a different jurisdiction, they may inadvertently have caused the estate to become resident of their jurisdiction. And then there's tax complications to consider there, of how the estate's being taxed. Is it being subjected to more tax than it should be etc.? The other thing is many executors typically when they're acting in their personal capacity, wanna consider obtaining executor insurance, which is the type of insurance you might get just to guard off against anything going wrong in the estate settlement that might be blamed on the executor, right? So, providing the executor acted in good faith, insurance can cover them for different types of mishaps that can happen in an estate settlement. But it's difficult to do that, if you're a non-resident executor. It's a difficult to obtain that. The other thing is that it's also practically and logistically challenging to actually coordinate steps where someone is not local, and particularly where there's time zone differences, etc., because there's a lot of administrative work that goes into settling an estate. A lot of phone calls to

	make and documents to be sent around. Sometimes originals that need to be signed in front of a notary. And so, it's difficult to actually carry out those steps. So, in this case the result is that the estate settlement is actually significantly delayed, and incurs significant additional costs and efforts
Slide:22 Video time: 00:17:47-00:18:32 Speaker 1 (Sara Hillier)	...on Trevor's part as well. So, I think the lesson here is really that it's critical to consider jurisdictional issues. Ideally, your executor is actually somewhat local to you, or at least within Canada. Now, Nancy and Paul could have benefited from having a Canadian executor in this case, perhaps even a professional? If you are considering a professional, typically you're guaranteeing that there's no jurisdictional issues, because sometimes I do have people ask, what if my child ends up moving? What if they are resident in Canada when I make my will, but they're thinking about leaving. Considering all the angles is really important.
Slide:23 Video time: 00:18:34-00:19:33 Speaker 1 (Sara Hillier)	Okay, now, this is a bit of a story about a modern family. By definition, I think a modern family can encompass a lot of different things and different family dynamics. In this case we're really talking about a blended family, and this is about James. Now, James is a successful

	entrepreneur, and he has 2 children with his first wife Sherry. They get divorced, and James subsequently marries Denise, who has 2 children of her own already. Now James and Denise are together happily for many years, and they have great relationships between them and all the kids. They're quite a successful blended family. Now, James passes away before Denise, and in their wills, they've left everything to each other with it, being divided equally between their 4 children, all 4 children, on the death of the last of them.
Slide:24 Video time: 00:19:34-00:20:43 Speaker 1 (Sara Hillier)	Now, because James passes away first, his estate is entirely distributed to Denise and as time goes by, Denise and James's children kind of lose touch a little bit. They're not as close. They don't see each other as much and many years later Denise is informed that technically she has no legal obligation to maintain the distribution to James's children in her will. So essentially, she decides to remove James's children and leave her entire estate to her own 2 children. So, the end result of this is that when Denise eventually passes away, James's children are shocked and devastated to learn that they are actually excluded upon Denise's passing. They take her estate to court, but ultimately, in this case they lose, and they actually receive

	nothing of their father's significant assets.
Slide:25 Video time: 00:20:44-00:22:06 Speaker 1 (Sara Hillier)	This happens probably more often than people realize, but I think the lesson here is that blended families in particular, require careful planning, and one must consider the possibility that moral obligations alone will not guarantee the desired outcome. I always say that the moral obligations and the legal obligations should really align, and that is not to say that we don't trust people etc., etc. But you know, things happen, and we wanna make sure that we protect you know our goals and our intentions. And in this case, I think James and his children certainly could have benefited from him, considering some other distribution plan. Perhaps, part of his assets go directly to them upon his passing, or he could have considered a spousal trust, which is a specific type of trust that you can direct assets to that could benefit your surviving spouse while they're alive, and then ultimately be passed to the beneficiaries that you dictate upon their passing. So, that type of solution would specifically have addressed this issue and prevented this from happening, where James's children unfortunately receive nothing from his estate.
Slide:26-27 Video time: 00:22:09-00:27:17 Speaker 1 (Sara Hillier)	Okay, next case. This is about a joint account. This is another topic that comes up often.

It's a common pitfall for sure in estate planning. So, in this case we're talking about Megan and Megan has 3 adult children, and those children get along really well. Megan has appointed all 3 of her children as her POAs and executor and her will distributes her estate equally between them.

Sounds pretty straightforward so far. As she gets older, though she decides to add John, who lives close by to her, and is available to actually assist her the most with her day to day things that she needs, and she adds him as a joint account holder on her bank account, so that he can actually help her with her day to day transactions. What is not really clear is whether she understands the implications of that? However, she's added him as a joint owner of her account.

Now the issues that arise are that when Megan passes away the siblings begin the process of the estate settlement, all 3 of them are appointed as executor and when John attends the bank as he lives close by, he just happens to be the first one to head over to the bank and start to try to deal with things, the teller informs him that the joint account is now his, as he's the surviving owner. So, John's a little bit surprised, but he figures, you know the teller knows what she's talking about and that must be how it's set up. And so he goes ahead and transfers a balance of the account to his own account.

This represents a significant portion of his mom's estate, and when Jeff and Jennifer find out they're furious. And they don't believe that this was their mother's intention, or would have been her intention. And their result is that Jeff and Jennifer actually take the matter to court.

So, first of all, when the matter goes to court, if you're making a claim against the estate, you can't also represent the estate, or you have a claim against you, you can't represent the estate, so none of them can actually act as the executor of the estate. So a neutral party has to be hired or engaged to do this role.

Eventually the court does rule in favour of Jeff and Jennifer, and I'll explain a little bit about that but it does cost a significant amount of time and expense, and certainly causes a permanent rift between the family members.

The reason the court ruled in favour of Jeff and Jennifer ultimately is that although Megan had added John as a joint owner on the bank account, for bank accounts there's a presumption under the law that unless it's otherwise specifically outlined by the person who's passed away, the presumption is that the joint account between a parent and their adult child is joint for convenience and not joint with the intention of a right of survivorship.

Joint for convenience, meaning they're gonna help them pay their bills, as Jeff and Jennifer believed was their mom's intention, and that they're not actually meant to receive the funds. So that's why Jeff and

	Jennifer prevailed in court. However, the cost of doing so obviously significantly reduced the value of the estate and caused a lot of you know time and energy to be essentially wasted between the family members. And I think it's important because a lot of people think about adding people as joint to their account, and maybe it is your intention that your child actually receives that account if you pass away. But if that's the case, then that has to be abundantly clear. And I think we actually got a question specifically about what type of documentation a bank will accept when you're trying to clarify the ownership intentions of the account. Banks all have their own rules, and internal policies and procedures around that, but they're not typically great at documenting the intentions for accounts like this. And because of that, they may go straight with the rule of joint owner is joint survivorship. When that happens, the only recourse is to take the estate to court, to do otherwise. So, it's a very tricky thing, and if you're trying to accomplish joint with right of survivorship or not, either way, it should be abundantly clear why someone is on an account, and the financial institution should accept that instruction. And they should confirm to you that they've accepted that instruction.
Slide:28-29 Video time: 00:27:22-00:31:16	They've documented it in their file. Okay, the next one; estate eviction. So, in

Speaker 1 (Sara Hillier)	this case, Maria has 3 adult children. Gio, who lives far away, Mateo, who works but unfortunately struggles financially, and he lives with Maria as a result, and then there's Isabel, who is busy with her own kids. Now Maria names Gio and Isabella as her executor. She feels that they're more responsible to be able to handle the task, but she leaves her estate equally to her 3 children. Now there's no specific direction in her will regarding her home, which is the main asset of her estate that makes up the majority of her estate. Now, when Maria passes away it becomes apparent to everyone that Mateo really has no savings to be able to move out. He wouldn't qualify for a mortgage to be able to potentially buy out his siblings shares of the estate or the property and Isabelle is considerate of Mateo's best interest, but Gio wants the home sold as quickly as possible, and he expects Mateo to pay market rent if he stays there in the interim Now, that might seem harsh. However, it’s not unusual that an executor is actually expected to act in the best interest of the overall estate, and not any one particular beneficiary. So, if there is a property and there's someone living at it, it's not unheard-of rent to be paid unless all of the beneficiaries agree otherwise, because that's an expectation you would have if it wasn't a family member staying at the house. Now,

the result in this case is that Mateo is actually forced to move from his home without much notice. He doesn't have a plan for his living expenses. Of course, he's due to receive an inheritance, but that won't be for many months, because probate has to happen. The property has to be listed for sale. They may have some clean-up and staging, and things like that to do to the property itself.

So, it won't be many months before he actually has some cash in hand from the actual sale of the property, and that in order for him to receive that he has to vacate the property.

So, I think, in this case, what we really learn from this is that the beneficiary circumstances are just as important as your circumstances, when you're planning your estate.

Special attention should be given to plan, for where a loved one is living at a property particularly if they're financially dependent on you, and I will say, like, in this case, we're talking about, an adult child, but the same or similar thinking needs to go into things where you have a spouse and the property is not jointly held, what's gonna happen if that's the place you live in, or you want them to continue to enjoy it and use it after you pass away. There has to be a careful plan. Of course, if you're legally married, you have a little bit more rights around that either way, this is something that should be thought

	through carefully. In this case Maria, and her children, really could have benefited from maybe some sort of timeline for Mateo to be able to stay in the house that she actually dictated in her will. Maybe other arrangements could have been made or thought about to consider supporting his financial stability over the long term, because clearly, he kind of needs that support.
Slide:30 Video time: 00:31:17-00:34:46 Speaker 1 (Sara Hillier)	A number of things could have been, maybe, mapped out in advance had this been kind of thought about? So, I believe this is the final case study, and I'm going to go into a bit of detail to talk about some tax implications in this one. So, forgive me for getting a bit technical on some of this. So, this one I'm calling all things equal, and it's about Jerry. Jerry has 4 adult children. And he has a significant estate, and he wants it to ultimately be divided equally between them. But he's kind of mapped out in his mind how he wants that to occur based on the specific assets he has, and the children he thinks is appropriate to receive the different assets. So, he has his home, and he feels that his daughter Miranda is the most appropriate to get his home. She doesn't have a place of her own; she's currently renting and it's a

neighbourhood that she wants to live in; her job is close by. He feels it makes sense for her to actually receive his house. It was where they grew up, and he wants his kids to actually keep it, since Miranda would actually like that.

Now, Chris, his son, he actually enjoys going to their camp or their cottage, which is a recreational property that he owns, and that the kids have all enjoyed going to. But Chris is the one who has really taken to you know the kind of camp lifestyle, more so than any of his other children. Chris has been the one to help take care of it. and kind of do different jobs around the property and help maintain it. And he wants Chris to have that property as well, and also for that to be kept in his family.

Now remaining, he has some financial assets, the most significant of which is his registered plan. So, he has a registered retirement income fund. And this account, the balance is 1 million and both properties are actually worth 1 million when he's doing his estate planning. And then the balance of his other accounts is about 1 million as well. Now, because he's been told that if he names a beneficiary directly on the RRIF it can go straight to them, and it will bypass the probate process, and it'll reduce probate fees, he's named Teresa as the beneficiary on the RRIF. The other accounts that he has also totalling about 1 million are gonna go to Brian as the beneficiary under his will.

And then, in addition to that, he's named

	Miranda as the joint owner of his house, and he's named Chris as the joint owner of his cottage property. So, in his mind he's mapped out a plan for distribution of his estate that is efficient, because some of the assets will pass directly to the surviving owner or the beneficiary without needing to be involved in the probate process, and it's still equal. Now, what he hasn't done is given any real consideration for estate liabilities, when that time comes.
Slide:31-32 Video time: 00:34:47-00:41:08 Speaker 1 (Sara Hillier)	You probably can see where I'm going with this. So, the issues that arise when Jerry passes away are that first of all, the value of the assets are no longer equal. Okay? Of course, that's quite common. Your asset values are gonna fluctuate, sometimes annually, sometimes monthly, right daily even. The value of your assets is always fluctuating. It's a moving target. And in addition, the estate expenses are always gonna be the responsibility of the estate unless you've specified other arrangements. But ultimately, they're the responsibility of the estate, and that means they come from the assets that are falling into the estate. And now, in his case, I'll talk a little bit about what those liabilities are. So, there's estate expenses that you probably think of. Obviously, there's like funeral expenses, there's different things relating to if there's a

service, and all of that.

And then there might be some outstanding bills, the usual, utilities and all that, if you have real estate, your cell phone bill. All those things that have to be cleared up and paid. Those are all you know, estate expenses and liabilities, right? But on top of that, there's also tax liabilities which is typically significant, depending on the value of your estate, because in Canada, we have what we refer to as a deemed disposition of all assets when you pass away, which it means, it’s as if you sold everything you owned immediately prior to to your death. And so, it triggers capital gains taxation potentially and it also affects accounts like registered plans. And I'll go into a little bit more detail here in a sec.

So, let's take the house, for example. Typically, with real estate, most of the time, the value is going up. It's rare in Canada that it's going down and particularly, depending on the location, it's likely that the property values is gonna go up and in that's what it did in this case, for the house, between the time he made the plan, and the time he passed away, the house value is now 1.2 million

Now, because he lived in the house, and in this case we're gonna say it's considered his principal residence, there is thinking you can do around what property is your principal residence, if you genuinely spend time living at both properties. But for this case, for example, we're gonna say the house is principal residence, and so there's no capital gains taxes associated with that as of his date of death for his final taxes.

With the recreational property, though, which doesn't have access to the principal residence exemption, there's a significant amount of capital gain there. Let's say, in this example, he purchased the property for 700,000. At the time of his passing, it's gone even up more than the house, it's worth 1.4 million dollars.

That capital gain is triggered, and it's a responsibility of his estate to pay that tax liability. So, more to follow on that in a sec. With the registered account, this is going all directly to Teresa. She's receiving the entire $600,000. Wonderful! Except that this distribution from the RRIF account to Teresa. Because with a registered account like this, we've deferred income tax, now that it's coming out of the account, it's subject to income tax, and the entire amount is taxed as income. So, we're adding $600,000 in income in that final year

The tax liability, again, is going to be payable from the estate. So, what does the estate consist of? The estate consists of the rest of his financial accounts because that's what actually fell under his estate and is to be distributed as for his will, but it's only distributed once those tax liabilities are paid.

So, in this case, while he meant for Brian to receive the entire value of those other

	accounts, what actually happens is those accounts, which I'll note, both the RRIF and the other accounts are reduced in value by the time that Jerry passes away because typically we spend money as we live, right? So actually, he's been drawing money out of these accounts between the time he does his estate plan, and when he passes away, and often our expenses go up as we age, and we need different things. So, as a result, the value of the accounts are less. And then there's these tax liabilities to deal with. So, in this case, I've estimated the approximate tax liabilities and estate expenses to be about $500,000, based on the capital gains of the recreational property, you know, the RIFF being treated as income, and that's actually reduced Brian's distribution from the estate to about $200,000. So, in this case we actually have a very far from equal distribution. Which was what Jerry had originally intended. Right? His kids go to court over it. Significant time, expense, fractured relationships. And I think the lesson here is really, you know, estate planning must be looked at holistically. The distribution should be mapped out to consider what is passing inside and outside of the estate, who it's going to, and where all the expenses and liabilities are being paid from right. Jerry would have benefited from actually reviewing all this carefully and considering,

	perhaps a plan to reduce the impact of probate. But that would not risk this unexpected, unequal distribution of his assets.
Slide:33 Video time: 00:41:09-00:41:40 Speaker 1 (Sara Hillier)	Okay, so that concludes our case studies. Just, you know, real quick here a highlight reminder of why? We wanna do some takeaways for you. Obviously, your estate plan should protect your loved ones, it should minimize expenses, it should protect you and your assets during your lifetime, you should appoint the right representatives, you should consider incapacity planning, of course, and it should all be customized for your needs and situation.
Slide:34 Video time: 00:41:42-00:42:16 Speaker 1 (Sara Hillier)	So, we're gonna do a quick poll question before we dive into the Q&A portion. Based on what we've actually covered today, do you feel that it would be worth reviewing your estate plan? So, you should see it pop up momentarily. You can answer yes or no, and I'll give you a minute here to answer that. Okay. Let's see here. Lots of folks answering. Good to know everyone is still online and listening.
Slide:35 Video time: 00:42:17-00:42:29 Speaker 1 (Sara Hillier)	We got 84 percent of you do feel, yes, it's probably worthwhile to review your estate plan, 16 percent of you feel okay, you don't need to review your estate plan. That's

	fantastic. Hopefully, we've still given you some things to think about
Slide:36-37 Video time: 00:42:31-00:43:23 Speaker 1 (Sara Hillier)	And real quickly, before we dive into the Q&A, I want to just go over how ClearEstate actually supports folks with the estate planning and we do this holistically, and we do use technology to help make the process efficient, and help kind of guide you through things step by step. Essentially, we walk you through with a human to actually work through the collection of your personal information and documentation, and then provide some guidance and coaching around the decisions and considerations you have to make, develop a personalized plan, including potential strategies, that for efficiencies and savings, and then actually create your estate planning documents and securely store all of this in our digital vaults and then review it annually,...
Slide:38 Video time: 00:43:24-00:44:17 Speaker 1 (Sara Hillier)	... or as needed to make sure it still makes good sense. Now, ClearEstate does offer a professional service, including through our fiduciary partner, actually acting as the executor of the estate, fulfilling that role, alleviating that completely for your family, which obviously comes with a bunch of benefits, including, not burdening them with that, but also that you're assured that your estate is in good hands, and everything is handled and managed appropriately. And

	that your family can...it's not something that they have to worry about. And of course, ClearEstate, our goal is, as a modern tech enabled trust solution, to offer our services at a more reasonable rate than the services currently available out there to you, so...
Slide:39 Video time: 00:44:18-00:44:22 Speaker 1 (Sara Hillier)	Something we're happy to discuss with you, if it's something that interests you.
Slide:40 Video time: 00:44:23-00:44:34 Speaker 1 (Sara Hillier)	You can book a free consultation to discuss that further with us. We have the link here. It will also be provided to you via email as well.
Slide:41 Video time: 00:44:36-00:44:41 Speaker 1 (Sara Hillier)	And with that we, I think can move on to the Q&A portion
Slide:42 Video time: 00:44:46-00:45:30 Speaker 1 (Webinar facilitator) Speaker 2 (Sara Hillier)	Q: Should you sit with family and tell them what is in the well or leave it for a surprise? A surprise! I like how that's worded. I like surprises but honestly, most people don't. I think that, to the extent that it is possible to talk to your family about this stuff, I would always recommend it. I appreciate that sometimes, family dynamics don't actually

	allow that, so obviously, you know you and your family best. However, generally speaking, if beneficiaries are well informed of what to expect, then you have a better chance of having a smooth estate settlement.
Video time: 00:45:31-00:46:42	
Speaker 1 (Webinar facilitator)	Q: Great thanks! And here's another quick question about wills: If I leave a percentage of my estate to my grandchildren, whose parents are divorced, are they entitled to see the will?
Speaker 2 (Sara Hillier)	I think they, means the grandchildren probably, and if so, yes, the grandchildren are entitled to see the will but not just the will actually, any beneficiary that is receiving a percentage of the estate, in other words, a share of the estate, and not a specific gift or amount, any beneficiary like that, we refer to as a residual beneficiary, as in they are splitting the balance of the estate. And when you’re a residual beneficiary, you are not only entitled to see a copy of the will, in most jurisdictions, you are also entitled to see a complete accounting of the estate. The assets, the liabilities, all of the transactions, because otherwise, how can you, kind of, be assured that you're receiving the correct amount, since you're receiving a share or

	percentage of the estate.
Video time: 00:46:43-00:48:26	
Speaker 1 (Webinar facilitator)	Q: Great. Thank you. Next question. What are the pros and cons of using trusts? Do you advise them to bypass probate?
Speaker 2 (Sara Hillier)	Okay, this is a really big question. Trusts. There's many different types of trust, for all sorts of different purposes. Some involve some type of savings, some are probate avoidance strategies, some are protective in nature. Generally speaking, though, if it's something you're setting up through your will, that's going to take effect after you pass away, this is not something that avoids probate. The assets that are in the estate, potentially still have to go through probate before that testamentary trust is established. There are some types of inter vivos or living trusts that you can set up that will avoid probate, but that needs to be mapped out carefully to actually consider, is it worthwhile for me to do that? Because, you know, there's an administrative burden that comes with it, because it's something you're setting up right now, and you're setting funds aside to it. There has to be a trustee. There has to be tax returns filed every year.

	All of those things need to be thought through carefully to think about whether or not it's worthwhile to do it. And if the only you know, goal is probate avoidance or reducing probate, then I would always encourage you to actually think about what is probate actually gonna cost me in relation to you know that that the pros and cons. We'd have to sit down and talk about the specifics, though before you could receive proper guidance.
Video time: 00:48:27-00:50:11	
Speaker 1 (Webinar facilitator)	Q: Great thanks. And here's another pretty big one. What types of investments, properties, etc. can and cannot be made joint with children and the pros and cons of doing so?
Speaker 2 (Sara Hillier)	Yeah, so technically, any type of asset other than a registered plan, like a TFSA, or a RRIF or RSP, those are always going to be individually held but most other types of assets or accounts can be held jointly. The question is more, is that something that you want to do? And the reality is that it could be convenient to do that. It could create some efficiency and savings in your estate. But, whenever you're jointing assets with someone, you're also taking on some risk as well. Because now, they have access to that asset. The asset also is accessible by their creditors, if they have creditors. It could

	be considered part of their family property if they were to become divorced. And anything you wanna do with that property, technically, they're now an owner so, they would have a say in that, right? So, there's a lot of potential complications for that and again, similar to thinking about trust, we have to think about the pros and cons of doing that. Is that really the best solution? Is it worth the risk? And you know, sometimes it is, sometimes it isn't right. It just depends on your circumstance.
Video time: 00:50:12-00:53:19	
Speaker 1 (Webinar facilitator)	Q: Great thanks. And we got a couple of questions about estates with executors in different jurisdictions similar to what we're talking about in a different country. But we had several questions about just within different provinces. So, one question was, does an executor living in a different province face some of the similar pitfalls as an executor living abroad? And I, sorry there's one more that's kind of related parallel to the Florida case study. Are two separate wills advised when there are assets in Quebec and anywhere else in the rest of Canada?

Speaker 2 (Sara Hillier)	Yeah. Great, great question. I'll address the Quebec question first. Quebec has a very prescribed process for the execution of wills. And they actually have what's referred to as a notarial will, which is specifically done by a notary. Notaries in Quebec are different than the types of notaries that we're used to in the rest of the country. They have additional powers and part of those powers is actually they're able to validate a will just by executing it with the testator. Which means that there's no probate process required in Quebec, if the will is actually a notarial will. Because it's considered to be already validated, if it's a notarial will. Whereas probate in the rest of the provinces, the purpose is to validate the will, and there's no other way to do that other than probate after the person dies. So, where Quebec is involved, I would always have a notarial will if there's assets in Quebec. If there's assets in another jurisdictions, it probably is recommended, depending on exactly what those assets are, but it probably is recommended to have both, just in case there's a probate process required in that separate jurisdiction that those processes can happen simultaneously. And if there are complications with... so regarding other provinces, and it mostly will be logistical, complications of having someone out of province. But, generally speaking, you can have an executor in another province, in most jurisdictions in Canada, unless there's no

	will. Some provinces actually will not allow. Ontario, for example, if the estate is intestate, which means there's no will, it has to be an Ontario resident who applies to be the executor. There's some rare exceptions, but, generally speaking, intestate cases, you need an Ontario resident. So, it just depends on the jurisdiction, but, generally speaking, it's often advisable, if it's Quebec, to have a secondary will. If it's two other provinces like BC and Ontario, for example, it might be okay.
Video time: 00:53:20-00:55:56	
Speaker 1 (Webinar facilitator)	Q: Next question. Is it a good idea to have two adult sons as the executors of your will if they have a tenuous relationship?
Speaker 2 (Sara Hillier)	Okay. I wanna be very sensitive to this because, it's quite common that people talk to me about their family members not getting along. You're not alone, if that's what you're experiencing. It's quite common. And unfortunately, relationships don't tend to get better after someone, you know, has passed away. They tend to get worse. So, I would definitely not recommend that you have executors, who are already in conflict with each other. Estate administration is difficult, time-consuming and stressful work for family members. And that is, even when they

	have the best of relationships, right? Differing personalities, differing viewpoints, and in some cases there's decisions to be made about how to handle certain things. For example, if there's a property to be sold, what realtor is gonna be used? How much should be spent on staging? Are there any repairs that should be done? Should we paint? And then what's the least price? Those are small decisions. But then there's also what are we gonna list it for? What is the amount that's going to be acceptable to us in terms of an offer? So, there's all kinds of decisions that typically are being made along the way, and when you have executors, they always need to be acting jointly. So, when you have co executors they need to make their decisions jointly. Sometimes, you can include some type of majority rule or some type of mechanism for decision making, but ultimately the executors have to be on the same page as they go through the estate administration, and if they already have a tenuous relationship, there's very little chance that they'll navigate that successfully. So, I would recommend definitely not. I wouldn't recommend one over the other, either, because then you have a situation where they have a tenuous relationship and now they actually feel like they're being treated unequally. So, a neutral party is typically best. This is why lots of people would consider a professional executor in that scenario. But at the very least, someone who's truly a neutral third party that's gonna

	be objective may be able to make decisions and keep a cool head.
Video time: 00:55:57-00:58:52	
Speaker 1 (Webinar facilitator)	Q: Thanks, Sara, and in that same line of thinking, we did get a few questions. Different people, different types of scenarios, but basically wondering what their options are if, say they're current executors, who are named, they're getting a bit older. Or maybe they, this particular person doesn't have any children to name executor or extended family members, or anyone really, who they think is really up to the task of being their executor. What are the options available, otherwise?
Speaker 2 (Sara Hillier)	Yeah, so you know, I've obviously mentioned that ClearEstate is something you can consider. I think it's wise to kind of explore what the options are out there for you. There are a few different ways. You can engage a professional. Obviously, you can also. I mean, I have people ask me like, hey, my neighbour said they'd do it. Like is that okay? I mean, you know, how close are you with your neighbour? I don't know. They may be competent to do it but it's asking a lot of someone which is typically why it is often, if it's an individual being appointed, it's a close

	family member. Considering professionals, there's a few options. There's traditional kind of trust companies out there, of course, who do it. Most of them are attached to a major financial institution. They will have a sort of fee schedule. That's typically set out a blended rate based on the value of your assets. Unfortunately, the minimum fees are often, you know, inaccessible for many families. But some people will hire a lawyer who will be appointed individually as the executor. That's probably a more expensive option. Lawyers would typically charge the full amount that's, you know, entitled in a lot of jurisdictions. That's 5 percent of the value of the estate and then they would probably also charge some additional fees for the legal work that they do in the estate settlement. And then, there are some other professionals who might do it. Sometimes accountants will do it. They would charge similarly. But then they'd still engage a lawyer. A lawyer would still engage an accountant. So, it's tricky. There's not a lot of options available to folks, but I would definitely say, what ClearEstate is trying to do is provide a modern solution that is reasonably priced and will provide you with that neutral expert estate settlement process that potentially you're looking for. And then also we actually do the probate application. We actually do the tax returns, so there doesn't have to be

	all these different additional professionals that are getting engaged and charging fees as well.

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