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Client Information Summary

Why Joint Ownership Can Be a Bad Choice

I often have clients ask me whether they should put their assets into joint ownership with a child to avoid paying probate tax. Often they've read about this in the newspapers or had a well meaning lawyer tell them about it. But let's look at the facts. Probate fees in Ontario are 1 ½% (they start off at ½% but we'll ignore that for the sake of simplicity). This was an outrageous tax grab by the Ontario government (one of many) but let's face it: in the scheme of things, 1 ½% is chicken feed compared to the tax on RRIFs when you die (it could be over 50%) or capital gains 23 to 26%. Why do people get so fixated on the relatively low probate fee? Here's why joint ownership can be a poor choice:

1. The change of ownership may be considered a disposition triggering a taxable capital gain.
2. Your joint property is now exposed to your child's creditors. If your child is in business for themselves, or is a professional like a doctor, lawyer, dentist etc then a law suit against them will expose your joint asset to seizure.
3. Your joint property may be considered your child's family property, so if there is a marital dispute your child may be harmed because if it is included and then has to split both you and your child are at risk.
4. You may lose control of your joint asset if your child decides for whatever reason decides to act independently.
5. The paperwork on a joint asset is more difficult, usually requiring two signatures to make changes or cash cheques.

These are some pretty serious negatives, so I would generally recommend against putting assets in joint name with a child. Joint ownership with a friend or other relative would make even less sense.

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