



00;00;06;01 - 00;00;28;08

Peter Ward

My name is Peter Ward and welcome to the Solutions to Go podcast. Your source for information on investing, insurance, banking, tax planning and healthy living. If you'd like to know more about anything discussed on this podcast, please visit mysolutionsonline.ca where you'll find a wide variety of articles and videos. Today we're going to talk about something that roughly 50% of Canadians don't want to talk about. It's morbid and it forces us to think about a world that we no longer live in. That's right. We're talking about estate planning. Even though it's tough, it does give you the option of providing for your loved ones how you would want to. As we'll get into in this episode, if you don't have a plan, your assets may not be used in the way you intended or could end up in the wrong hands completely. John Natale joins us again for this episode after the excellent episode we did together on Registered Accounts, which is episode two, if you'd like to listen. So please join me as I speak with John and learn all about estate planning and why it's important to please to have on the show today a very special guest. John Nathalie. John is head of tax retirement and estate planning services on the Wealth team here at Manulife. He and his team provide case of support on tax, retirement and estate planning matters to advisors across the country. Welcome to solutions to Go, John.

00;01;30;02 - 00;01;31;08

John Natale

Thanks, Peter. Happy to be here.

00;01;31;15 - 00;01;42;07

Peter Ward

So, John, I think this is probably on a lot of listeners to do lists. It's not really something we like to think about, our own mortality, but I think it's a good place to start. Why is it important to have a will?

00;01;42;07 - 00;01;56;27

John Natale

It's something that a lot of people haven't done. I think we've all seen the stats out there. Approximately 50% of seniors don't have a will, but that's, I think, pretty consistent with North America. And of those who have drafted a will, many of them haven't looked at them in a long time. So those wills might be out of date. So, the simple reason why people should have a will is because if you have an estate, and I would argue that most people have an estate, you'd be surprised at how many people say, Well, I don't have an estate, but you look at your assets, you start making a list of them. Most people do have an estate. In a very common example I use is, do you own your own home? Well, now everybody's home is almost worth at least \$1,000,000

with this crazy real estate market. So, yeah, so I would say almost everybody has an estate. And the reason why you want to have a will is you want to make sure that the assets that you've worked your whole lifetime to accumulate are distributed to the people as per your intentions in the manner you intended in a time effective in a cost effective and in a tax effective way. If you don't draft a will, people think, Well, if I don't have a will, will they don't have an estate plan? Well, that's actually false. You do have an estate plan. It's the government's estate plan, because when you die without a will, you're deemed to have died intestate. So that's a legal term, intestate. And every province has their own intestacy rules. So if you die without a will, every province has a piece of legislation that sets out who gets what. Now, for most provinces, it's pretty consistent. Initially, everything goes to your spouse. If you only have a spouse not have any kids or if you have a spouse and kids, part of it will go to your spouse and part of it will go to your kids. If you don't have a spouse and kids and you look at parents and siblings and so forth. And some people say, well, John, okay, that's not so bad. Like, I don't see that downside because, you know, everything's going to go to my spouse or my kids. But what if you're separated from your spouse but still technically, legally married in some provinces that separated but legally married spouse is look at the assets or what if your kids are minors, right. You're given amounts to minors. Is it really bad idea? Or what if you've had a falling out with your children, don't want to give them anything or a much smaller amount that they would get under the intestacy rules? Do you think that the will allows you to do allows you to pick the executors of your state who's administer your state and also allows you to provide instructions and who should be the guardians of your children? Wouldn't you want to provide instructions as to who would be the guardians of your minor children? Yeah. So there's so many important reasons tax planning, estate planning, making sure of an effective and smooth distribution of your estate on a timely basis. There are a lot of reasons why people should have a will.

00;04;20;26 - 00;04;30;16

Peter Ward

And is there is there any rules around the executor? Can you pick a family member, or does it just someone you have to trust or are the rules, they can't be related, etc.?

00;04;30;16 - 00;05;03;07

John Natale

Oh no, you can pick a family member. Yeah, absolutely. I would say the rule of thumb. So no legal rules. The rules of thumb are to pick somebody that you trust, obviously, but also someone that has the capacity in both from a time perspective as being executor can be very time and labor intensive. Right. Also, you want to pick somebody who maybe has some type of acumen or background in investments or estates, those kind of things, because it is a very challenging role. And if people aren't prepared or don't have that kind of knowledge or expertise, it can be very difficult. It's often a very thankless job. Okay, so you want to think about who you're thrusting in that role because you may or may not be doing them a favor. We recommend that individuals speak to potential candidates that are thinking about being executor to make sure they're onside and they know that what they're getting into. Have you ever heard of David Chilton?

00;05;30;01 - 00;05;30;20

Peter Ward

No, I haven't.

00;05;31;00 - 00;05;33;09

John Natale

So David Chilton is the author of The Wealthy Barber.

00;05;33;10 - 00;05;36;10

Peter Ward

Okay. That rings a bell. Now, the wealthy barber, for sure. Yeah.

00;05;36;10 - 00;06;03;17

John Natale

And he has a great quote that says that I that I believe and he says, I'll do anything for my friends except two things. I won't help them move because I'm too old and I won't be the executor because I'm too smart. And his point is that it can be a very stressful and thankless job. I think that might be a little bit of an extreme position, but I do think it's important to highlight the importance of naming the executor and who you pick and making sure that person is prepared. And if you don't have somebody, then yes, either trust companies or maybe look for a lawyer or something like that who may be able to assist.

00;06;10;11 - 00;06;17;16

Peter Ward

And hear is me thinking it wasn't too bad. And then he's compared it to moving and having a friend move, which is just the worst thing I can think of. It's the worst weekend have ever had.

00;06;17;17 - 00;06;23;11

John Natale

I think I refuse to move again. Yeah. I'm 100% with you. Yeah.

00;06;23;11 - 00;06;29;23

Peter Ward

So what are the some of the most common wealth transfer mistakes that you kind of see Canadians making today?

00;06;30;00 - 00;06;50;24

John Natale

One of the biggest mistakes I think people make is failing to take into account the tax considerations when they're distributing their assets. And if I can, I'll try to give you an example. And I hopefully you guys can follow me. Think of a scenario where an individual, a single parent, a widow or widower or something like that, and they have three adult children and they have three assets. So I'm going to give a very simplified example. And they have a home that's worth \$1,000,000, right? They have an RSP that's worth \$1,000,000, and they have a non-registered

investment account worth \$1,000,000. So not your typical person. But don't worry about the numbers. I'm just using large round numbers, just for the.

00;07;06;22 - 00;07;08;12

Peter Ward

Example of illustration purposes.

00;07;08;12 - 00;07;10;07

John Natale

Illustration purposes sounds like a disclaimer.

00;07;10;07 - 00;07;10;22

Peter Ward

Absolutely.

00;07;11;10 - 00;07;30;09

John Natale

And let's say they have three children and they say and they're thinking, I want to distribute my state one third, one third, one third to each child, So a million each. So, they said, okay, well, for the RSP on that, my oldest child is the beneficiary on the RSP, they'll get \$1,000,000 and in the will I'll designate my middle child to get the house. So they get \$1,000,000. And in the will also I'll designate my youngest child to get my non-registered investment of \$1,000,000. Okay. So they each got \$1,000,000, Right? Right. However, the RSP is going to be taxable on the parent's final tax return, but the person who pays that tax return or the taxpayer that pays a tax return is the individual's estate.

00;07;53;29 - 00;07;54;06

Peter Ward

Mm hmm.

00;07;54;21 - 00;08;11;08

John Natale

Which effectively means that the beneficiaries receive under the will. Well, if the youngest child is receiving the residue of the estate, which basically the non-registered investments are million dollars, they're going to be responsible for paying the tax on the RSP that the eldest received tax free.

00;08;11;10 - 00;08;11;20

Peter Ward

Okay.

00;08;12;08 - 00;08;29;17

John Natale

Right. So let's say that RSP is \$1,000,000. Let's say the tax payable is \$400,000. The eldest child gets that million dollars. Right. The youngest, who's the beneficiary on the will is going to pay the tax of 400,000, then only be left with 600,000 and the middle child because they got the home, we're going to assume they get the principal residence exemption. It transfers over tax free. So they get \$1,000,000 asset as well. And the youngest child is the one who gets kind of left holding that tax bag.

00;08;36;14 - 00;08;39;20

Peter Ward

Oh, wow. Yeah. Doesn't pay to be the youngest child in this scenario.

00;08;40;01 - 00;08;57;22

John Natale

No, that's a scenario. Yeah. So that's just one example that hopefully people are able to follow that. But think about the tax conscious consequences. But you want to make sure that you leave your beneficiaries or you want to consider what your beneficiaries receive from an after tax perspective, not a pre-tax perspective.

00;09;01;24 - 00;09;13;08

Peter Ward

I often hear this term probate and probate can be a long and drawn-out process. Maybe we can just explain to the listeners and myself actually, what probate is and what that process involves.

00;09;13;11 - 00;09;30;10

John Natale

Yep. Great question. So, first thing I would say is that probate applies in all the provinces except Quebec, so probate doesn't apply in Quebec. The second thing I would say is I'm like you, you hear probate all over the place and before I went to law school was like, Oh, what is this probate thing? So I'll give you kind of the formal definition. I'll try and explain it in everyday terms, right? So probate is the process whereby the court confirms the validity of the will and the authority of the executors. So what does that mean? The validity of the will and the authority of the executors? Okay. So, let's deal with the validity of the will first. When you draft a will, you can subsequently revoke that will and draft a new will you like if you change your mind. So now you may have two wills or three wills. Right. So, the problem is, if you're a financial institution and someone comes to you with a will. So this is the last will and testament of Peter. Mm hmm. Say, well, how do we know that is the last will and testament? How do we know it wasn't the second last version or the third last version? Because who gets what may differ? And yeah, you know what? You will. So they don't know who the people are. They don't know who the executor is. The executor may be different each of these wills, so they don't know who to cut a check to. Right. So that's the thing. So, what the financial institutions say is, well, listen, bring your will to the court, file it. You have to pay a filing fee and that's why you pay probate fees, because you pay a filing fee. And the court will say they'll give their seal of approval and say, this is the last will and testament of Peter. And now when you bring that probate, it will that will put that that seal to the financial intuitions, the financials, and say it can

say all this has been approved by the court. This is the one. So, this is who the executor is. Okay. We can cut a check to that executor. And I guess the government charges you those probate fees and in provinces where probate fees apply for their service, but they like to make money off of it, of course. Yeah. So that's what basically it is. So that other people who are looking at the will like a financial institution, they know that they are in fact looking at the last will. Of the deceased. And they know that they who can then they can transact with who they can give the money to.

00;11;13;19 - 00;11;26;28

Peter Ward

And so for every one that passes away in Canada, this, this happens other than Quebec, obviously. So is this like a because I don't really have any experience with this. So does everyone have to go down to the courthouse and file the will essentially?

00;11;27;23 - 00;11;49;11

John Natale

So, yeah, it's a wonderful question and it's a nuanced question. So, if somebody needs to rely on that, will and once the proof of the court validation, okay, then yes, they will ask an executor, whoever the family or the family member is, to get the will probate. But if nobody's asking for proof of the will.

00;11;49;12 - 00;11;49;24

Peter Ward

Okay.

00;11;50;03 - 00;12;10;06

John Natale

Okay. So you don't have any assets at a financial institution or you don't have any assets going through your estate. Right. Well, then, in theory, you might not have to submit your will for probate. It's only when somebody asks. So the most common example would be like a bank or an insurance company or something like that, potentially asking for it, but sometimes when there's disputes within the estate, people challenge the validity of the will or those kind of things. There can be other reasons why people might ask for a will to be probated, but if nobody asked for them to be probated, you don't have to probate your will.

00;12;22;00 - 00;12;26;07

Peter Ward

And that would be the responsibility of the executor to take care of all that.

00;12;26;11 - 00;12;29;22

John Natale

Correct. Absolutely. The executor would submit the will for probate.

00;12;30;03 - 00;12;31;18

Peter Ward
Jobs getting tougher, by the sounds of it.

00;12;31;20 - 00;12;33;09

John Natale
Yeah, absolutely. Yeah.

00;12;39;11 - 00;12;42;27

Peter Ward
Let's talk about some of the options to bypass probate.

00;12;43;17 - 00;13;06;14

John Natale
There are many options. So, for registered assets. And when I say registered assets, I mean, are RRSPs registered retirement savings plans reverse registered retirement income funds, tax free savings accounts, pension plans. All of those plans and products outside of Quebec. You can name a beneficiary. Okay. So when you name a beneficiary, those assets can go directly to the beneficiary. Avoid your estate and avoid potential probate. In Quebec, you can only name a beneficiary if it with a life insurance company like Manulife. Right.

00;13;15;08 - 00;13;15;19

Peter Ward
Perfect.

00;13;15;26 - 00;13;38;17

John Natale
Yeah. Perfect for non-registered contracts. The common law. Promises of the promises outside of Quebec are like Quebec in a sense that only insurance products. So a life insurance product, a segregated fund, an insurance company, GIC, we call them a GIA. Those are the only products that allow you to name a beneficiary.

00;13;38;18 - 00;13;44;16

Peter Ward
So even if they're non-registered but through an insurance company, it also can bypass probate, correct?

00;13;45;03 - 00;13;54;26

John Natale
Correct. Whereas if you have a bank GIC or a mutual fund or stock portfolio, you cannot avoid. There's no ability to name a beneficiary.

00;13;55;05 - 00;13;55;17

Peter Ward
Okay.

00;13;55;29 - 00;14;20;26

John Natale

Now that being said, for those other assets that don't allow you to name a beneficiary, there are other strategies. For example, you could name someone as a joint owner. Okay. So you've probably seen it all the time. You know, a joint bank account. Right. Or people are joint owners on their home. So that's a way of assets flowing outside of your estate, because when you pass away, when the first joint owner passed away, the asset transfers automatically to the surviving joint owner. Okay. Without going through the estate. The other strategy that people often use is transferring assets into a trust. So you could transfer an asset into a trust before you pass away. And again, that those assets would not flow through your estate. They would actually go to the trust and you can avoid probate in those kind of issues. So there are a few other techniques depend on what the asset is and **the tax type**.

00;14;42;14 - 00;15;02;11

Peter Ward

Okay. And is this so like naming the beneficiary and setting up the trust? Are these just generally accepted things that kind of supersede the will in a way? **Or is that kind of a way to think about it, like just because they go outside like**. Yeah. To get the relationship between the will and trusts.

00;15;02;18 - 00;15;22;18

John Natale

No, it's a really good question to help people kind of visualize this. You could use the word supersede. I think what it is, is you kind of have these sets of rules and the rules say, okay, you have an asset. Okay. If it's almost like a flow chart, you have an asset and you say you look at the act and say, are there some rules that apply? That asset that **avoided going through** the estate?

00;15;25;10 - 00;15;26;05

Peter Ward

Right. Okay.

00;15;26;05 - 00;15;45;22

John Natale

So, could be is there a beneficiary designation? Is it held jointly? Is it in a trust? And if the answer to that question is yes, okay, then you avoid your estate. But if the answer is no. Well, now the fallback provision, right, is that it falls through. It goes into your estate and then is distributed according to the terms of your will. So I think you got it. Yeah. Yeah, I know.

00;15;49;15 - 00;16;06;03

Peter Ward

That's a big asset. Yeah, for sure. So this one's a little bit morbid, but I like what you've mentioned before when you've chatted about controlling from beyond the grave. Can you tell

us a bit more about the strategies for controlling the distribution of assets, etc., from, you know, after you pass away?

00;16;06;12 - 00;16;28;09

John Natale

Yeah, no, for sure. Listen, we don't like to think about that. But know, I think this is a very important question to consider because I've seen so many situations where people have had their state depleted or used in ways that would probably have made them turn over in their grave. Right. So there are definitely ways that people can control from the grave and I think the first thing that comes to most people's mind is the use of a trust. Okay. So you can do that in your will or you can do it outside of your will. But within the trust, what that allows you to do is to say these assets, when I pass away, I want a trustee. So, the trustee is going to be the person who administrators trust. It's kind of like the executor of your estate. You can give instruction to the trustee as to how to manage the funds or the assets, who to pay the assets to, when to pay the assets. Oh, to they can make it conditional, like they only pay the assets out when the individual, which is age 25 or 30 or those kind of things. So that's a very, very powerful way to control from the grave, especially if you consider it if a beneficiary might be younger, irresponsible with the money, or may have mental health issues or substance abuse issues or those kind of things, or even, you know, oftentimes you see a situation where the parent is concerned about the stability of their child's marriage. And they're worried about if they divorce, whether their assets being eventually end up in their daughter and son in law's hand. **So they all came aside to do that.** So the downside with the trust is you should get a lawyer to draft the trust documents because you need to have a trustee. You may have to pay trustee fees and you may have to file a trust return. And they're a little bit inflexible once you've set them up. The other option that you can do and we offer this, but there are many life insurance policies and segregated funds and insurance company. Geez. And we have something called the annuity settlement option. Okay. So we were talking about before about ways of avoiding your estate in your will by naming a beneficiary. Well, if you use this strategy within those products, you name the beneficiary, but allows you to name a beneficiary so that they receive their funds in the form of an annuity. Okay. And so if you're not familiar with it and know what an annuity is, what annuity is as a client or an investor, you give the insurance company a lump sum, let's say \$100,000, and you can choose what's called **a term certain annuity**, like a ten year term where the insurance company will pay out annuity payments or installment payments over ten years. Or you can choose a life annuity with the insurance company will pay out installment payments over the individual's life. So you can use this annuity so that your death benefit is paid is used to buying annuity, and then annuity makes installment payments to the beneficiary. So they get these periodic payments. But life does it all themselves. Okay. So you don't need a trust. So it's like a trust alternative. So you have both you have like kind of two arrows in your quiver. The nice thing about the annuity settlement option is it's free. There's no cost. Yeah. And if you change your mind before you pass away, you can then change the beneficiary so that the beneficiary does receive a lump sum. So you have a couple options there.

00;19;09;08 - 00;19;18;23

Peter Ward

Yeah. Yeah, it does seem really simple compared to the trust, but obviously the trusts would be from more complex assets and, you know, things beyond what you hold with an insurance company.

00;19;19;03 - 00;19;40;20

John Natale

Absolutely. Absolutely. The advantage of the annuity. So one option is simplicity, ease of use and no cost. The advantage of a trust is that you can add more features in. There are more conditions and more restrictions. But again, there is a cost. And that's why I kind of as a very, very simple rule of thumb, people say you shouldn't look at setting up a trust for somebody if you're not looking at assets. In addition, in excess of \$1,000,000.

00;19;48;23 - 00;20;00;01

Peter Ward

So, let's do the big question in your mind, what is the single biggest wealth transfer mistake that Canadians make? I know we touched on a few of the more common ones, but is there something that's burning there?

00;20;00;24 - 00;20;17;01

John Natale

There is, Peter, and I feel like my kids, when they ask me really my limit it to one. Yeah, So I'm going to give you an answer, but I don't want to call it count as my one. **I want to hold something back as my one.** So, to your point, I think we've talked about not having a will or updating your will in line with that. A lot of times people forget this not having a beneficiary designation when they want to have one or not updating their beneficiary designation. Okay? So they may change their mind, just like you want to update your will to keep it current, you want to keep your beneficiaries current. But that's not my answer. Okay. Okay. Okay. So my other answer is, is that that's the big one. But the other answer is when it comes to estate planning, it's a little bit of my own personal opinion is don't worry too much about every dollar, about, you know, planning to the nth degree. I recommend people think about estate planning in broad strokes. Are the assets generally going to the people you want it to in the manner you want it to? Because I've seen too many times where people get super complicated, they get they go detail crazy. And what happens is often there's new there's a new court case or the change in legislation, and it totally throws the estate plan upside down. And it's completely not what they wanted to have happen. And they have to do everything again from scratch. So I think having flexibility in your estate plan, making sure again, like you kind of get all the big strokes and into the money's generally going to the people or institutions that you want to that would that would be my key be flexible don't be super detail oriented when it comes to them.

00;21;34;04 - 00;21;55;06

Peter Ward

Absolutely. And I think it always comes down, as most things do, to good planning. Right. To, you know, developing an estate plan with your advisor maybe, you know getting you make sure your will is up to date, you know, name your beneficiaries where you can on those products.

00;21;55;06 - 00;21;57;22

John Natale

And, and, you know, like I said, no one likes to think about it, but you plan it and you know, **move it off** and review it every couple of years and you're going to feel a lot better about it after that.

00;21;57;22 - 00;22;04;16

Peter Ward

Yeah I think so too. John, as always, it was such a pleasure having you on the show. Thank you for coming back in and being part of this episode.

00;22;04;26 - 00;22;06;11

John Natale

Always happy to be on here with you, Peter.

00;22;06;14 - 00;22;32;08

Peter Ward

Great. Thanks so much. I think there was a great episode with John and I always come away from these conversations with a deeper understanding of the topic with estate planning. It comes down to, as John mentioned, the broad strokes get a will set up name beneficiaries on registered assets and just have a conversation with your loved ones. Let them know how you'd like things to go if the unfortunate were to occur. It may be tough to talk about now, but you'll feel a lot better with a plan in place. Thanks again for listening to solutions to go. If you're enjoying the content, please like and consider leaving a review. We'd really appreciate any and all feedback.

00;23;05;28 - 00;23;21;22

Peter Ward

Copyright Manulife. This podcast, including case studies and support materials, is for general information purposes only and is not specific to any one individual or case.

The podcast shouldn't be relied on for specific financial, legal, tax, accounting or other advice. Opinions expressed are those of Manulife and are subject to change based on legislative case, law, market and other conditions that may change during the course of recording and publishing of this podcast. Manulife is not responsible for any losses arising from the use of the information in this podcast. The Manufacturers Life insurance company Manulife is the issuer of Manulife insurance contracts, contracts containing Manulife segregated funds and the guarantor of any guarantee provisions therein. Manulife Investment Management is a trade name of Manulife.