



Estate Planning by Scott D. Abel

Everyone, regardless of their age and financial circumstances, should discuss estate planning with their financial team. The estate plan need not be complicated or expensive. The important aspect is that the plan is discussed, implemented, and followed.

When meeting with your lawyer, and discussing your circumstances, your lawyer may ask you questions about things you have already looked after. A good example is whether or not you have life insurance. Your answer may be “yes” or “no”. If your answer is “yes”, that should not be the end of the discussion, as who you have named as the beneficiary of your life insurance is just as important as the decision to obtain life insurance.

Your beneficiary may be a family member or friend, or it may be your estate. Your decision as to who you named as beneficiary could have serious implications for your estate when you pass away.

If you name your spouse as the beneficiary of your life insurance, your spouse receives the policy benefits free from any claims by any creditors of your

estate. You could owe money to the bank for a car loan or mortgage, but generally speaking, if you name a person to be the beneficiary of your life insurance, the bank could not sue your spouse to receive the life insurance monies.

The situation would be vastly different if you named the estate as your beneficiary. As the estate is the beneficiary, the estate receives that money. The executor of your estate is obliged to pay all debts of the estate prior to leaving your property to the people named in your will. So, if your will leaves all of your estate to your spouse, before your spouse receives the life insurance money, it would first be used to pay the bank for the outstanding debt. After all debts are paid, then your spouse would receive the life insurance money, assuming any money is left.

Even if you have no debts upon your death, naming the estate as the beneficiary of your life insurance may have financial consequences you did not consider. Generally speaking, a lawyer’s bill in estate matters is based on the value of the estate. The more valuable the estate, the more a lawyer can charge for that

estate. If the life insurance has a named beneficiary, it never forms part of the estate and therefore, does not effect the lawyer’s bill. However, if the life insurance does form part of the estate, it will increase the value of the estate and the amount the lawyer can charge.

Often, a will has to be probated, which requires a judge to review the estate matters and sign Letters Probate. In order to have a will probated, fees are paid to the Government of Manitoba based on the value of the estate. Again, the higher the value of the estate, the more probate fees that will have to be paid.

There may be a very good reason why the estate is named as the beneficiary of your life insurance policy. That reason should be discussed with your lawyer and financial planner to ensure the beneficiary designation of your life insurance fits in with your overall estate plan.