

Insurance Planning

Hull on Estate and Succession Planning Podcast #55

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Suzana Popovic-Montag: Hi, and welcome to Hull on Estate and Succession Planning. You are listening to Episode #55 of our podcast on Tuesday, April 10th, 2007.

Welcome to Hull on Estate and Succession Planning, a series of podcasts hosted by Ian Hull and Suzana Popovic-Montag, that will provide information and insights into estate planning in Canada, from the offices of Hull Estate Mediation in Toronto, Ontario, Canada. Here are Ian and Suzana.

Ian Hull: Hi Suzana.

Suzana Popovic-Montag: Hi there Ian, Happy Birthday.

Ian Hull: (Laughter) Yeah, that's right as this podcast launches into the Internet, I will have hit the ripe old age of forty-five.

Suzana Popovic-Montag: Another year wiser.

(Laughter)

Ian Hull: Well, no doubt older and for today's podcast, without being overly salesperson-like about it, given my impending doom at some point in life, I think it would be handy to talk about insurance planning issues, keeping that in context of Wills and estate planning strategies.

Suzana Popovic-Montag: And of course, insurance planning is particularly important when you have situations where a spouse or child relies primarily on someone else's income in order to maintain a standard of living that they have become accustomed to.

Ian Hull: And I, as you know, and we don't sell the product of insurance, but we certainly use the product of insurance in so many helpful ways in our practices. Certainly on death, both in a contentious and non-contentious way, because the proceeds can often be substantial and can often resolve significant issues. So, certainly from my perspective, it goes without saying that Canadians have to seriously consider whether or not they are properly insured, not just to sell the product, but more importantly to make sure, as you say, that things are in place on death. But it becomes acutely important in situations for married adults and, of course, with kids.

Suzana Popovic-Montag: And we're not just talking about life insurance, are we, Ian? I mean, we're talking about things like disability insurance or critical insurance as well.

Critical illness insurance and the long term care insurance that is available these days to help protect against what could possibly be financial disasters in different situations.

Ian Hull: And in that regard, I like to go through with my client, not again to move the product, but to anticipate the problem on those three types of products. And the two products that we have seen certainly come to fruition most interestingly are the disability insurance and the critical care insurance. The disability insurance, the product itself is a very useful tool, certainly for professionals and the like who can get into situations where they need to continue and maintain their cash flow, so to speak, in situations of disability. But it's important for those of us who also have a physically active lifestyle, but more importantly, physically active employment requirements. And so that policy itself is vital.

Suzana Popovic-Montag: And that policy, Ian, is often times provided through an employer, but you're talking, I understand, about buying additional disability insurance?

Ian Hull: And certainly yes, and also just for those of us, some of us who don't have an employer who is funding a disability plan of some consequence. You want to check and make sure it's not too modest, because you'll again, coming back to this theme, that you have people expecting certain financial amounts every month and you'll want to visit that issue.

Suzana Popovic-Montag: And can you tell us a little bit about critical illness insurance, what exactly is that all about?

Ian Hull: Well it's funny that, you know, this topic has come up today because I was dealing with a close friend of mine who recently was, he is fifty-five years old and he was recently diagnosed with cancer. And the policy that he had purchased, critical illness policy, covers that, it's an automatic payment, and it's a payment on the diagnosis. So he's actually an engineer and runs a small engineering company and it was a vital part of maintaining his family's circumstances, both financially but also emotionally, because he was able to collect on the policy instantly upon the diagnosis, and then use those funds as a stop gap so that he could focus on his illness as opposed to worrying about trying to get into the office between treatments and things like that. He was able to take the time and I know with that illness anyway, many of the doctors will tell you that stress is the last thing you want to impose on your body when you're trying to recover from that.

Suzana Popovic-Montag: So it seems like a small price to pay for peace of mind anyways, in those kinds of terrible circumstances.

Ian Hull: Well, it certainly was a good news issue and a good news story. So the other obvious product is life insurance itself. And that's a product that, unlike the disability and the critical care which deals with your lifetime, income requirements during your lifetime, the life insurance policies are, as I said earlier, they are really a vital part of an estate planning. And it is typically an easier way to fund problems that are inevitable on your death.

Suzana Popovic-Montag: And I think, broadly speaking, there are probably three main uses for life insurance. And the first is to actually create an estate, if you haven't had an opportunity before you pass away to actually do so. And so, in other words, you have life insurance proceeds which will be the estate that you leave to your beneficiary, your named designated beneficiary.

Ian Hull: And that's another good news story, in the sense that if you're able to create the estate, the funds will pass to your next-of-kin or whoever you choose, a charity or your wife or your husband, and you've left a financial legacy that we all would like to do.

Suzana Popovic-Montag: And by the same token, those proceeds, the insurance, can be used to pay any outstanding debts such as mortgages or tax liabilities or those kinds of things. And then whatever is left over is, as you say, that estate that you're leaving to pass on to others.

Ian Hull: And that can be so important in a contentious environment when you have created financial dependencies, whether it's your surviving spouse or your children. And if you haven't created the estate, then you are going to create unbelievable problems, of course, for your survivors. The typical approach to creating an estate is also, with the life insurance policy, really underscores the need, not just to create, but the need to preserve and enhance an estate. And the product itself can be used for that and another useful tool. Certainly, the obvious example is when you have a second spouse situation and there may be other tax liability or you might have young children who are from a first relationship, who have significant financial needs, combined with your second spouse, who, of course, will have their own financial needs.

Suzana Popovic-Montag: And I guess it's also important to keep in mind that those funds can be used to deal with any tax liabilities that arise on your death. And I know we spoke in an earlier podcast about the deemed disposition of all of your assets on death, which have some unrealized capital gain, which will be taxed unless its left in some form of rollover to a spouse or to some other beneficiary who is entitled to take it in particular circumstances without the tax liability arising right at the time of that individual's death.

Ian Hull: And there really is, I think, and we'll talk about it in a minute, funding problems that get created with the deemed disposition. But the obvious one that an insurance policy can be helpful on is the passing on, as you say, of the deemed disposition, the passing on subsequent to the spouse's, the second spouse's death. So you have a scenario where a couple is married, they live a long and healthy life and the wife dies and leaves her estate in a spousal trust to her husband. Her husband's entitled to use the income and use some of the capital as he sees fit during his lifetime and then on his death, it then gets passed to their children. That is a typical and effective tax planning and estate planning step. But there will be a significant, typically, a significant hit on the death of the second spouse. And an insurance policy spread out over an extended period of time can be an easy way to ensure that you preserve your estate for that generation below.

Suzana Popovic-Montag: And now, so in addition to creating an estate in certain circumstances, and then secondly preserving an estate, I think the third reason that we've seen insurance policies used quite frequently is to actually equalize gifts in an estate.

Ian Hull: And I think this is the most underrated aspect of an insurance policy, because Suzana, you and I earn a living in the contentious environment. We see what kinds of problems arise on death, not as a result necessarily for financial reasons, but emotional reasons driven by spouses, ex-spouses, driven by kids who feel that they haven't been treated equally and the like. And the insurance policy itself can be an important tool in trying to equalize or make it fair, maybe not equal, but fair between the parties.

Suzana Popovic-Montag: And that really is an important thing to keep in mind because so often, I know from our perspective, the litigation is fueled by things that are not necessarily financially motivated, but emotionally motivated. And the feeling that you're not being treated equally as another sibling or another individual can have terrible ramifications in estate matters.

Ian Hull: And the classic, speaking of emotional, the classic situation where you have a vacation property, which is attached to a tremendous emotional history and the like, you can use the insurance policy to take away the sting of what is going to be typically a significant deemed disposition tax owing on death. Because the property is bought when your children are young, they enjoyed it for many years and then on your death, there's a built in capital gain that the tax has to be paid on.

Suzana Popovic-Montag: And I think the same thing can be said about a closely held family business as well, that might bring with it a bunch of ties and emotional considerations that wouldn't necessarily come to the fore during the lifetime of an individual, but certainly need to be dealt with after he or she passes away.

Ian Hull: And the last point I'll make on this equalization aspect is that I think that people underestimate the flexibility of the insurance policy and the insurance tool in solving these problems, because I was working with a financial planner recently, whose essentially his whole practice is to enhance estates through the use of insurance policies to ensure that assets pass down to the next generation and aren't gobbled up by the tax that is impending. And I was surprised at (a) the flexibility and (b) the usefulness of this estate planning tool, even with clients who are more elderly, and situations like. And one of the examples that he provided to me was that there are possibilities, for example, to get insurance when you're older and what you can do is buy a joint policy, last to die, where you have a husband and wife who start buying the policy and it's not paid out until the last of the two pass away. The premiums aren't as onerous, the insurance company spreads the risk out between two more elderly people, but over a longer period of time, typically by doing it and it was a creative tool that, I think we just want to remember, is available to us to help equalize an estate or help solve a problem. And ultimately, we certainly see, help avoid a conflict on the death of the parents.

Suzana Popovic-Montag: And just to sort of tie that up Ian, in addition to your suggestion about these allied professionals working together, the insurance advisor, for instance, working together with the lawyer, I think in these circumstances, when you're talking about trying to equalize an estate, you also want to keep in mind the fact that a business valuator, if you have a business that your trying to value and provide for sufficient insurance funds to treat another individual equally, that that individual has a key role to play as well. Because you want to make sure that if, in fact, you are trying to equalize, you know what it is that you're trying to meet, what the goal there actually is.

Ian Hull: That's terrific and I think that winding up on that, we'll certainly want to in future talk about the business valuator and the process upon which they are involved in estate planning, because that's a big, big part of estate planning and that's very helpful. Thank you.

Suzana Popovic-Montag: Well thanks very much Ian, I look forward to our next podcast.

Ian Hull: Thank you.

You've been listening to Hull on Estate and Succession Planning with Ian Hull and Suzana Popovic-Montag. The podcast you have been listening to has been provided as an information service. It is a summary of current legal issues in estates and estate planning. It is not legal advice and you are reminded to always talk with a legal professional regarding your specific circumstances.

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