

Non-Estate Assets

By all outward appearances, my client was a wealthy individual. He owned a large house, had lots of investments, and when he passed away, he left his wife and children so much money that none of them needed ever to work again. Yet he only left a small estate. How can this be so?

This apparent paradox can be explained if we remember that not all of a person's wealth falls into their estate on death. There are several important categories of assets that are said to pass "outside of the estate" on a person's death. These include the following:

RRSPs. Most people designate one or more beneficiaries of their RRSPs when the plans are first established. If a beneficiary has been designated, any money in the RRSP is paid directly to that individual following the death of the plan holder without first falling into the estate. The taxes, however, are paid out of the estate. If no beneficiary has been designated, or if the designated beneficiary has predeceased, the RRSPs will fall into the plan holder's estate. Beneficiary designations can be changed by contacting your RRSP provider.

Life Insurance. Most people designate one or more beneficiaries of their life insurance policies when the policies are first taken out. Death benefits are paid directly to the beneficiary following the death of the policy holder and also do not form part of the estate. Life insurance proceeds are not taxable, so there is no tax consequence to either the estate or to the recipient.

Jointly owned property. Most jointly owned property carries with it a right of survivorship. On death, the surviving joint owner assumes full ownership of the property in question and does not form part of the deceased person's estate. Think of how much property you own jointly with your spouse or common law partner. Your home is probably owned jointly. Your bank accounts are probably in joint names. Your non-registered investments might also be in joint names. It is unlikely that any of this will form part of your estate if you are the first to die. (It will, however, form part of the survivor's estate on the eventual death of the survivor.)

An important exception to the rule of survivorship is made for joint bank accounts between a parent and an adult child. There is a legal presumption that these joint accounts form part of the deceased parent's estate unless the co-owner child can prove otherwise.

Pensions. Most pensions plans are required to pay survivor's benefits to a surviving "pension partner" if there is one when the pension plan member dies. Generally speaking, a pension partner is the spouse or common law partner of the pension plan member. If the pension plan member does not have a pension partner at the time of his or her death, then the benefits will be paid to the person

designated by the plan member as their beneficiary. These benefits also pass outside of the deceased person's estate and are paid directly to the designated beneficiary. If there is neither a pension partner nor a designated beneficiary, then benefits that are payable are paid to the estate.

When one considers just how much of a person's wealth is comprised by their RRSPs, their life insurance, their jointly owned property, and their pensions, it can be seen that a person can be both wealthy at death but may leave only a small estate. Good estate planning pays regard to all of a person's wealth—not just that which will pass through a person's will at death.