

Income tax consequences of making an asset joint with an adult child

People often choose to make assets joint with their adult children for estate planning purposes in an attempt to avoid probate fees on death. Whether or not they are successful, in the haste to avoid a fee there may be unintended income tax consequences.

Gifts of property generally create a disposition for income tax purposes at the time of transfer. The original owner may have to include accrued income for that year up to the date of deemed disposition. In addition, following a gift of property, both joint owners may have to report income for tax purposes in proportion to their beneficial ownership in the asset.

The question of whether or not the transfer creates a disposition for income tax purposes is not necessarily straightforward since it depends on the intent of the original owner. If intent is not clearly established, there are several factors that may be looked at to figure it out.

For example, if the original owner's intent is to make a gift to the new holder of half the value of the asset and have that person take full ownership of the asset upon death, then there would probably be a disposition of half of the value that would trigger income tax consequences.

If, however, the intent of the transfer is to ease estate administration and **not** to gift or change beneficial ownership, there would generally not be a disposition and there would be no income tax consequences. In this case, on the original owner's death, the assets would probably be subject to

probate fees, depending on the provincial legislation and related legal interpretations.

Before making assets joint with an adult child, ask yourself:

1. **What is the reason for making the asset joint?** Have you clearly documented your intent? If not, you should make your intentions known to your child and to your future estate representative by writing your intentions out with the help of a lawyer and keeping that information with your will. This may help you and your estate representative avoid future tax issues or ownership disputes. However, if the asset involves a third party, such as a bank or investment account, the account contract may govern how the asset is dealt with at death for the third party's purposes. If any kind of trust is intended, then a trust account may be required, not a joint account.
2. **Is this consistent with your will and overall estate plan?** You should review your will and power of attorney (POA) and discuss the estate implications of the transfer (including the avoidance of the probate process and taxes or fees) with an estate lawyer.
3. **Would a POA let your adult child manage your affairs more effectively?** A POA can grant your adult child (or any other person) the authority to complete financial transactions for you without impacting the current ownership of your assets.

As well, the question of whether or not a disposition occurs should be discussed with a tax advisor.

Here are some examples to highlight the income tax treatment of making assets joint with an adult child.

GICs and bonds. Barbara transfers a 5-year GIC into joint name with her adult son on May 15. If the transfer is considered a change in beneficial ownership because of Barbara's intent, then from a tax perspective, she will include in her income any interest that accrued up to May 15 and interest earned after May 15 will be reported equally by Barbara and her son.

Equities and mutual funds. Lynn transfers shares held in her brokerage account into joint name with her adult daughter on February 1. If this is considered a change in beneficial owner because of Lynn's intent, then 50% of the shares would be considered disposed of by Lynn on February 1 at fair market value, which may cause a capital gain or loss to be realized for tax purposes (depending on Lynn's adjusted cost base of the shares). These shares would be deemed to be acquired by Lynn's daughter at fair market value on February 1. Any

income generated from the shares after February 1 would be split evenly between Lynn and her daughter.

Property. Holding a principal residence jointly with an adult child can be problematic, depending on the intent of the parent and actual usage of the property. In general, gains from a principal residence may be sheltered using the principal residence exemption. However, holding a principal residence jointly with an adult child may limit the use of this exemption. As well, there may be other creditor and family law issues that should be explored before making any such transfer.

Your CIBC advisor can help you understand the implications of joint ownership with an adult child. Your advisor can:

- Explain how jointly held assets may be taxed differently from assets that are not jointly held
- Highlight, in general terms, the pros and cons of holding assets in joint ownership

For more information

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