

The Butler Bulletin

Butler Wills and Estates

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Question from a reader:

“If I pass away, do my RRSPs transfer to my wife and still stay within the tax-free status? She is named as the beneficiary.”

When it comes to estate planning, we get a lot of questions about RRSPs and how to keep them tax free. We all know that when you take money out of your RRSP there is tax. The only time this doesn't happen is if you roll it over to your spouse.

When you set up your RRSP, you are given the opportunity to name a beneficiary. Most people name their spouse because of the special tax situation that creates. Who you choose to name directly impacts the tax that your estate would pay.

If you name your spouse as the beneficiary of your RRSP, your RRSP is not tax free. Rather, it is tax deferred. This means that for now, your RRSP stays free from tax. Instead of paying tax on it right away, when your spouse passes away and the RRSP goes to someone else (for example, your children) the RRSP will be subject to tax at that time. When your RRSP transfers to your spouse, it is referred to as a “rollover”.

Keep in mind that this is only true if your spouse is named as the beneficiary of the RRSP. For

example, if you named your estate as the beneficiary of your RRSP, it would be paid into your estate when you pass away. This amount would then be taxed, even though your spouse might receive some of this money under your will.

Say you named one of your children as the beneficiary instead of your spouse or your estate. A lot of parents like to try and give their children something while they are still alive. If the parent doesn't rely on that asset, it can be a good estate planning idea. When it comes to an RRSP, this isn't necessarily the case.

The transfer of money from the parent to the child would still be taxable, because you have named someone other than your spouse.

On rare occasions, you can roll over your RRSP to a child who is financially dependent. This is uncommon, and doesn't apply to the majority of families.

If you aren't sure how your RRSP would be best used, talk to your financial planner, accountant, or estate lawyer. When it comes to tax, an accountant can give you a different perspective than an estate lawyer.

Is there a question you have that you'd like answered on our radio show? Send an email to thelawshownl@gmail.com.

We can't answer all of them, but if we choose your question to answer on the air we'll get in touch with you to send you a free copy of one of Lynne's books!

Don't forget to tune in to VOXM every Thursday at 11:30 am to listen to The Law Show!

Breaking Up with Your Lawyer

Recently this is a topic that we've talked about a fair bit. We did a podcast with this title not too long ago, and it will be mentioned again on an episode of *The Law Show* on VOXM. Since we've discussed how to go about finding a new lawyer, we figured we should mention that this situation doesn't arise all that often.

Situations where the lawyer and the clients can't cooperate to the point where one fires the other are not very common. Every professional relationship will have its ups and downs, but these problems can usually be resolved with calm conversation. Miscommunication can happen very easily, and asking questions can fix this.

However, sometimes the clients and the lawyer are diametrically opposed. This may be due in part to a personality clash, but it also usually has roots in the fact that the client has an idea of what the lawyer should be doing that is different from reality.

What the lawyer is selling is his or her advice. Every now and then a client will expect that (s)he can write a letter or document and have the lawyer forward it word for word. Hiring a lawyer is not the same thing as renting legal letterhead. Of course, the client's input is valuable, and the contents of any communication should reflect what the client feels the issue is. When it comes to actually sending out a document, anything that is sent by the lawyer must be drafted by the lawyer. The lawyer is responsible for everything they send, so simply forwarding a letter written by someone else isn't an option.

If the lawyer and the clients can see eye to eye on this issue, the problems can probably be solved.

The Human Factor

Very recently we went to see a man in the hospital who wanted to change his will. His daughter called us to make the appointment, and let us know it was urgent. The day after we visited him, he passed away.

What will happen once a person passes away is a topic that weighs heavily on the minds of many people that we see in the hospital. It's a time when they think about "the end" and what their loved ones will go through.

When you meet with an estate planning lawyer, whether in their office or in a hospital, you are sharing details about your family, your finances, and your final wishes. We get to know people very quickly.

These are all very personal topics, and the conversation can rapidly become emotional when the person feels as though they don't have a lot of time left.

We try to treat what we do as a helping profession. Although we can only help with a small fraction of what needs to be done, we try to relieve some stress by making the process as easy as possible for people.

A lawyer probably isn't the first person you think to call. If not having a will is stressing someone in this situation, getting the document done quickly, properly, and without a huge expense can provide a great deal of relief.

Why won't a lawyer tell me a simple yes or no?

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Quite often people call us with what they refer to as “a simple question” that they just need a quick answer to. 99% of the time the question is not simple, and the answer won't be quick. Either it involves multiple people, situations in different provinces, several generations, or any other number of factors, most estate situations are not simple.

Legal advice is highly dependent on the person's individual situation. As a result, a simple yes or no answer won't cut it, and the vast majority of lawyers aren't willing to risk giving advice regarding a situation about which they know very little.

The kinds of questions that allow for a yes or no answer do not account for your specific scenario. For example, the question “can a person's sister apply to be the Administrator of her brother's estate?” can be simply answered with “yes”. However, this answer doesn't address whether or not the sister has the first priority to apply, which other family members are still alive, which of these living family members reside within the court's jurisdiction, if the deceased person was married, or if he had children.

At this point most people try to share all of this information on the phone. However, once you start sharing your personal details you are no longer asking a brief question – you are seeking individual legal advice. Legal advice shouldn't be rushed. You run the risk of missing some important details, which could have a huge impact down the road.

Legal advice should also not be hurriedly handed out over the phone to whomever happens to call. Not only is this dangerous for the caller, the lawyer needs to be able to keep accurate records of his or her clients. When you don't know who is on the other end of the call, you could be talking to anybody.

Most questions that actually are simple can be answered with a bit of research. Try visiting Lynne's blog, www.estatelawcanada.blogspot.ca, which is packed with info about Canadian estate law.

If you can't find an answer, you probably need a one-on-one consultation with a lawyer.

Summer is Off-Season

Summer is off-season for law firms. It turns out that most people would rather go to the cabin and enjoy the beautiful weather than go to the lawyer's office (who could have guessed that?).

If you need to see a lawyer in July or August, this could work to your advantage. Many people take their vacation hours in the summer, and this includes lawyers. However, a slower pace in the summer means you might be able to make an appointment without waiting.

For example, our usual wait time for an appointment is a few days. In August, the vast majority of the time we are able to schedule someone for the next day.

Quite often we hear that people think to get their estate planning done, but it ends up on the bottom of the priority totem pole.

Take advantage of the slower summer pace and get started while you don't have to contend with bad weather, busy offices, and long wait times.

Please feel free to share this newsletter with others.

If you have any questions, comments, would like to suggest a topic, or to

unsubscribe,

*please email us at
chelsea@butlerwillsandestates.com*

When you think of an obituary, it isn't usually something pleasant. Obituaries are often considered sad, or at the very least a serious way of remembering a loved one. However, as these obits show, that isn't always the case. A great sense of humour doesn't have to come to an end.

WARD



James Robert 'Beef' Ward, 39, passed away Thursday, September 1, 2005 at O.S.U. East Hospital. He will be sadly and sorely missed by his loving family. Jimmy, whom his family affectionately called "Pork" or "Bubba", will be remembered for his wonderful sense of humor along with his dedication to his family. A beloved son, brother and uncle he was also a devoted animal lover whose kindness and gentle soul enriched all who knew him. Preceded in death by his mother, Barbara Jean "Buffalo Butt" Ward and pets, Princess, Buster, Lady, Bonkers, Susie, Daisy and Silky. Survived by the "light of his life" fiancé, Annie "Red" Callahan; father, J. Richard "Old Fart" (Debbie "Peep") Ward; sisters, Cathy "Funny Face" (Paul) Graf, Karen "Turtle" Ward, "Hamburger" Patty Ward, Amy "Amos" Ward; beloved children to be, Jessica "Thunder Child" and James; nephews, Joshua and Jason; numerous aunts, uncles, cousins and friends; pets, Simba, Charlie, Max, Bailey, Aussie, Sylvia, Elvis, Moe, Misty, Chloe, Blue, Sidney, Coco, Harley, Cassie, Paige, Little Dude and Diabla. A funeral service will be held 12:30 p.m. Wednesday, September 7, 2005 at SCHOEDINGER NORTH CHAPEL, 5554 Karl Road, where family will receive friends Tuesday from 6-9 p.m. Pastor Wayne Booth and Pastor Gary Holman officiating. Interment at Northlawn Memory Gardens.

John E. 'Jack' Jones Ruby

John E. 'Jack' Jones of Glenside died Saturday, Nov. 3, 2012. He was 64.

He was the son of Bernadette (Frederick) of Plattsburgh, N.Y.; brother of Dorothy Griffin, David Jones (Susan) and Deborah Styer. He also is survived by his niece, Christina Hayslip (Brandon); and his cousin, Nancy Davidson.

Jack enjoyed cars and Indy car racing, and was great movie trivia buff.

He was a veteran of the U.S. Navy, serving from 1969 to 1973.

Funeral services and interment will be held privately.

In lieu of flowers and in his honor, go see the new James Bond movie.

William R. May Funeral Home, Glenside - North Wales
www.mayfuneralhome.com



Ruby

KOBIN — Owen Kenneth "Ken" died of CHF with Hospice on watch. Under a bullheaded exterior lay an impatient but loving interior. He loved his family, food, t.v., food, the Bucs, food, the Gators, food, Tiger, food, his dog Buster, and food.

He is survived by Pat, his wife, Claudette, his ex-wife and the mother of his children: Scott, deceased, Stefanie Wilkerson, Cynthia Baldree, and Gregory Kobin, as well as his step-children: Leslie Rodriguez, Charlie Burmeister, and Augie Burmeister, plus three grandchildren: Shea Brennan, Ashley Celeste, and Xander Owen. He was born Jewish, and he liked to say Jesus was his cousin. He loved us all. His remote was cremated with him.



STEPHEN MERRILL, 31

WINTER HAVEN - Stephen Merrill, 31, passes away February 12, 2015, due to a uppercut from Batman.

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"Yes, he ate her grandma, that's not in dispute. But I intend to prove that Ms. Riding Hood, by mocking my client's eyes, ears, and teeth, provoked him!"

Did You Know...?

If you are admitted to the hospital involuntarily, under the *Mentally Disabled Persons' Estates Act*, the Public Trustee's office is automatically appointed to handle your estate within 14 days.

Having a valid will and Enduring Power of Attorney prevents this.