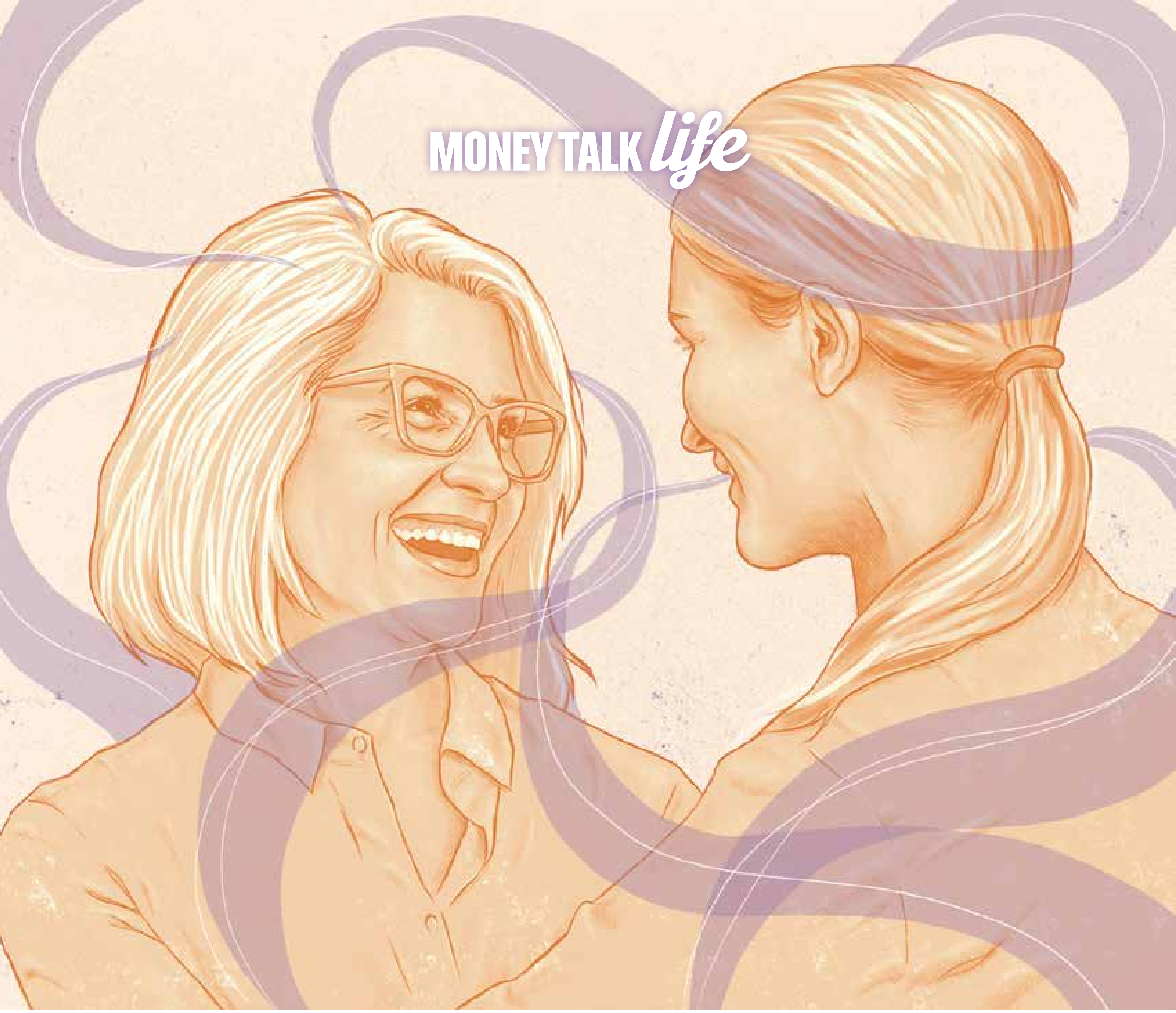

5 Conversations to Engage Your Kids About Your Estate

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We're not here forever, and we can't take it with us. But not opening up about our wishes and how property should be divided may be detrimental to family harmony and the value of your estate. You've worked hard for your money, and likely want to ensure that wealth lives on for future generations. We've provided a few talking points to help you get chatting about the important stuff.

You've heard that old saying: you can't take it with you. So you may want to consider what your assets can offer to future generations. You might not know for sure, for example, if your kids want to run the family company, inherit the family cottage, or have space for the extensive hockey card collection, so the best way to find out is to ask. No one wants to talk about the... gulp...inevitable, but some conversations need to be had, maybe for the sake of maintaining harmony between siblings, to help keep inheritances out of the hands of the taxman and creditors, and to help ensure you live out your senior years in the way you wish. A 2018 survey by TD shows that four in 10 Canadian millennials expect to receive an inheritance or have already received one. Of these, 60 per cent anticipate they will receive cash, while just over half see themselves inheriting a property or making money from the sale of one.[1] But the kicker is that 39 per cent of Canadians have parents with a will, but have never talked about it — a situation that is ripe for potentially unwanted surprises.[2] Domenic Tagliola, a tax and estate planner with TD Wealth suggests scheduling the following conversations – sooner rather than later – even if the thought causes you to wriggle in your chair.

CONVO NO. 1: WHO WANTS WHAT?

Sample conversation starter: "So, your father and I have been thinking about the family cottage/business/hockey card collection, and we wanted to know your thoughts on what should happen with them down the road?"

Dividing and allocating stuff in a will seems easy. Just leave everything to everyone, and let them sort out who gets what after you pass. Or just divide everything by the number of offspring, and you have an equitable split. This may not be such a good plan. While many assets don't lend themselves to neat divisions, like a cottage or business, having your heirs flip a coin for them after you die may create stress and animosity. "A good place to start is by estimating the value of what you want to hand down," says Tagliola. "Ask family members how they would like to see things divided. For example, who feels strongly about owning the cottage? Then try to divide your assets in a way that distributes the value of your estate equally."

If there is one big asset in the family, such as a property, it might be hard to make a division equitable. Life insurance, for example, may be an option to consider for helping to pass down cash to an heir who may not want the burden of a cottage. Having a good discussion around how family members see the division of the family fortune can help you to create a will and ensure harmony among heirs once you are gone.

CONVO NO. 2: HOW WILL THE TAXES GET PAID?

Sample conversation starter: "You know, once I'm gone, there are going to have to be taxes paid on this cottage/business/hockey card collection. Let's talk about how we can try to minimize the hit, and make sure they get paid…"

Yes, you still pay taxes when you die. Seems unfair, but it's a fact. While Canada is generally a country with no "estate tax," many people don't know, or conveniently forget that estates are still taxed on "deemed disposition." That means your assets are deemed to be sold to your heirs at the time of death, and tax must be paid on any capital gains at that time. In the case of a family cottage or business that was built from the ground up, or purchased for a decent price decades ago, those gains can be substantial. In fact, a well-located cottage that was bought for a few thousand dollars 40 years ago might have seen an appreciation in the hundreds of thousands of dollars. "A tax bill at death that hasn't been planned for may cause heirs to say 'forget this,' and call their favourite real estate agent," says Tagliola.

Having a discussion around taxes can help with the planning process, especially if there are complicating factors like heirs that live abroad (different countries have different rules around inheritances).

CONVO NO. 3: WHO WILL CARE FOR FAMILY WHEN YOU AREN'T AROUND?

Sample conversation starter: "Just in case one of us should be unable to take care of little Johnny/Grandma, we should probably talk about how they will get the care they need..."

"Guardianship of minor children is important," says Tagliola, "If you don't name a guardian in a will, the court will dictate a guardian for your child. You should make your wishes known." When writing a will, decisions are often made about caring for minor children, but those aren't the only people you may need to make plans for. You may also have an adult child with a disability who needs to be cared for physically and financially, or you may have elderly parents who depend on your financial support. Because those needs might be a big financial burden, the equal division of your assets might be difficult. If you need to finance long-term care for a child with a disability, there might be little left in the pot to distribute to others. Having a conversation about this can manage expectations, but also find a way to be fair to all your heirs.

CONVO NO. 4: WHO WILL MANAGE MY LIFE WHEN I CAN'T DO IT ANYMORE?

Sample conversation starter: "There may come a time when I can't take care of things around here, or make decisions for myself. We should talk about who will step up to the plate..."

The fact is, as we age we face a decline in our physical and mental faculties. In some cases, we can no longer take care of ourselves or our property, and a trusted loved-one might step in for us. In order for someone to access your financial accounts, make health decisions if you are unable to make them for yourself, and care for your property, you need to designate a power of attorney.

A power of attorney is a legal document that authorizes someone to act on your behalf. There are powers of attorney for health care and property, so you may need more than one. "You may want to consider appointing a trusted family member or friend who cares about your well-being and your wishes," says Tagliola. "You can choose to appoint one individual or a combination of individuals as your property and personal care attorneys."

"Another option to consider for your power of attorney for property is to use a trust company," says Tagliola. "This may be a good option if there is no one you feel you can leave this important task to."

CONVO NO. 5: HOW WILL WE MAKE SURE ANY INHERITANCE STAYS IN THE FAMILY?

Sample conversation starter: "I am hoping that the money I pass down can be used for you to obtain your graduate degree/start a business/invest. Let's chat about how we can make that happen, and make sure the money stays in your hands..."

Just as no one wants to talk about death, no one wants to predict a marital breakdown. But not only is divorce common, many people don't see it coming:

The Vanier Institute of the Family estimates that 41% of marriages in Canada will end by the 30th wedding anniversary. [3]

If you are planning to pass down wealth, understand that an inheritance can become part of any divorce claim, unless you have taken the proper steps to protect it from creditors. "Creditors don't need to be a mean ex-spouse," says Tagliola, "it can also be a business partner or anyone who claims to be owed money." You may also wish to protect any inheritance from flowing to someone else, like a spouse, if your heir dies.

Under Ontario law, a will can specify that the inheritance, together with the income and growth from it, will not be a part of the equalization in the case of divorce. However, it really depends on what happens to the gift. Rules can become murky if the inheritance is used to pay off a matrimonial home, or is spent over the years. For that reason it's often best to keep that money separate from other accounts and investments. There are many ways to protect the inheritance, so speaking with an estate law professional can help keep the money in the family.

Ultimately, you may find it easier to have these conversations if you schedule them in advance and set the subject, or maybe you want to play them down and just casually bring them up. Either way works, says Tagliola, as long as you start talking. "Stories or anecdotes can be great ice-breakers," he says. "Use people you know, or things you've read as a jumping off point."

Tagliola also states that you can also consider introducing your children to the professionals who are working on your estate plan, as they can help to begin the discussion in a professional and unemotional way. Decide if you want to talk to your family as a group, or each person individually, and decide if this is one big talk, or a series of discussions. "It won't be easy. It never is," says Tagliola, "but it can be more difficult for everyone if you don't sit down and talk."

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[1]TD. Double or Nothing: Are Millennials Gambling with their Financial Future? April 14, 2018. https://www.newswire.ca/news-releases/double-or-nothing-are-millennials-gambling-with-their-financial-future-690800421.html Accessed October 10, 2018

[2]Canadian Hospice Palliative Care Association. What Canadians Say: The Way Forward Survey Report. March 2013. http://www.chpca.net/news-and-events/news-item-50.aspx. Accessed October 11, 2018

[3]Vanier Institute of the Family. Separation and Divorce in Canada. December 2013. http://vanierinstitute.ca/download/5463/. Accessed October 11, 2018

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