Dealing with a Family Cottage

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When Jesse and Kae Burke purchased a vacation cottage 30 years ago, they knew it was a good investment, but creating time for family was their primary goal. Indeed, the property value had appreciated considerably, but more importantly, it had given them a lifetime of memories with their children and, more recently, their grandchildren.

Today the couple is in their 70s with two grown children. Jennifer lives nearby with her husband and children. Doug and his wife live in the USA. The Burkes own their primary residence and have sufficient investments to maintain their lifestyle. However, they no longer want the responsibility of maintaining their cottage. Uncertain about how to move forward, the couple connected with their financial advisor, who asked some helpful questions: Would one or both of their children like to own it? Could they afford it? Would they be compatible as co-owners? The best way to get these answers was to talk with their kids. Doug thought they should sell it, pocket the money and travel the world. Jennifer, on the other hand, hoped they would keep it forever.

Jesse and Kae discussed the conversation with their financial advisor, who offered two options to consider:

1. **Gift the property**

   Given that only Jennifer wanted to keep the property, the couple could gift it to her at today's fair market value, understanding that this would be the bulk of her inheritance. There would be tax implications for their generosity, however. The CRA would treat the transaction as if they had sold it to Jennifer and would be taxed (up to 40%) on how much the property had increased in value over 30 years, which was considerable. To avoid this, their financial advisor suggested they gift the cabin to their daughter over five years and add her to the title as a Tenant in Common, which allows for an unequal ownership share in real property.

2. **Create a trust**

   They could also transfer the cottage to a trust, either while alive (inter-vivos) or under the terms of their will (testamentary). This would continue to give Jesse and Kae control over the property during their lifetime. An inter-vivos trust would trigger capital gains tax for Jennifer, but they could also consider a joint partner trust (JPT) on a tax-deferred basis. Capital gains would be payable on the death of the second parent, but Jennifer would have 21 years to deal with the cottage property and could also avoid probate tax on its value. Before doing this, the couple would need written assurance that Jennifer was legally responsible for the costs of maintaining the cottage.

Jesse and Kae ultimately chose to gift the cottage to Jennifer, an option both of their children were happy with. They all felt that having an expert navigate the process helped avoid potential financial, legal and emotional pitfalls. A vacation property is often a treasured family asset. Knowing how to pass it on to the next generation is challenging. We're here to help.

Contact our office [1] to explore your options.

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