Gifting a Home to a Child

As housing prices in many major metropolitan areas continue to rise, home ownership is becoming increasingly difficult for the younger generation. As such, some parents and grandparents may consider helping their children with the purchase of a home or condominium.

Considerations

Two important considerations when supporting the funding of a property are the future tax implications (should the property be sold at a later time) and protecting the asset from the potential claims of others in the event of changes in family structure. These factors may impact the way in which you support the purchase.

- **Potential Future Taxes** — If the home is not designated as a "principal residence", there may be significant future tax consequences since the owner must pay income tax on any capital gains realized upon its sale. In provinces in which probate tax applies, the property may be subject to further tax upon the death of the owner.
- **Family Law** — If the child is married or in a common-law relationship, there may be concern with what will happen to the property in the event that the couple splits. Depending on how the transaction is structured, the asset may be protected from "equalization." As family law can vary by province of residence, legal assistance should be sought in the province in which the child resides.

Potential Options

There are a variety of ways to fund a potential property purchase. Here are some ideas:

Purchase the property in your name — Allowing your child to use the property but keeping it in your name may avoid potential family law issues. However, if you own another property in your or your spouse's name, capital gains tax will eventually be paid upon the disposition of one of the properties since a family unit (you, your spouse/common-law partner and any minor children) can designate only one property as a principal residence.

Gift cash to the child to purchase property — As there is no gift tax in Canada, giving cash to your adult child to purchase a property will have no tax implications. The child may also be able to use his/her principal residence exemption upon the eventual sale of the property. However, in the event of the child's marital breakdown, his/her spouse may end up receiving half of the value of the property.

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Lend funds to the child to purchase property — Providing your child with an interest-free loan/mortgage (the loan may bear interest, but you may be subject to tax on the annual interest amount) may allow your child to claim his/her principal residence exemption on the disposition of the property and may provide better protection under family law legislation as the mortgage liability would reduce net family assets. However, without proper planning, you may be subject to probate tax in provinces where applicable on the amount of the mortgage if the mortgage remains outstanding upon your death.

Gift funds to a trust that purchases the home — Although this can be complex, it may be an effective way to share wealth among various beneficiaries while avoiding potential tax and family law issues. Parents may retain legal control over the property as the trustee, while the child is the beneficiary of the trust. If the beneficiary, his/her spouse and minor children do not have another residence, the trust may be able to claim the principal residence exemption to avoid tax upon a sale.

Seek Assistance

As always, we recommend seeking professional advice if you are considering options for assisting your child in purchasing a home. A tax professional and a family law expert can help to map out the best options for your particular situation.