

## Wills, Trusts & Estates

# Planning for succession of a cottage or vacation home: Getting personal

By **Susannah Roth and Margaret O'Sullivan**



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(May 28, 2018, 9:30 AM EDT) -- For those who own a cottage or vacation home, who will inherit the property and how and when it will be inherited become serious concerns and are often worrisome. When planning for the succession of a cottage (or other vacation home), there are three main types of considerations to be reviewed: personal, tax and matrimonial issues. In this series of articles, we will summarize each of these considerations.

Personal issues are the first considerations to be explored when planning for a cottage or vacation home. Typically, a family-used cottage generates many emotional responses. A vacation home may have been owned for many years and, in some cases, through more than one generation of the family and may have an almost inexplicable personal and emotional significance to a family. If a vacation home has only been recently purchased or has not been used as a family vacation destination, it may not have as many emotional ties for family members.

While some family members may have a very strong emotional attachment to the family vacation property, others may not. However, an owner of a family cottage or other vacation home may assume, or may in some cases expect, that each family member and his or her own family places a significant personal value on the family vacation home. It is extremely important that this assumption or expectation not clash with reality for a successful succession plan to be implemented in relation to the vacation home.

In addition, emotional attachment may or may not dictate an individual family member's own desire to have an ownership interest in the family vacation home. While he or she may not want to own it for his or her own use when the current owners pass it along to the next generation, he or she may still wish to have an ownership interest to pass along to their children or other beneficiaries as part of his or her family legacy.

However, a desire to own or share in the ownership of the family cottage does not always coincide with the financial ability to pay for all or a share of the upkeep and maintenance costs of the property. A vacation home is often expensive to maintain, especially as the structure, septic and docks age and property values in certain areas rise, making for potentially high maintenance and replacement costs and increasing property taxes. Without proper planning, leaving an ownership interest in a family cottage to a beneficiary who cannot pay their share of the costs, even if he or she wishes to have an interest, invites a host of future problems, and it is often the source of family disputes.

Family members may also be unable to agree on how to share responsibility for upkeep and maintenance, both the financial and physical labour aspects. Family members with less ability to pay expenses may expect other, more financially able, members to pay more of the expenses. Family members using the property less often, or who are not as "handy," may expect to perform a smaller share of the upkeep than those using it more frequently or who are more "handy" despite equal ownership interests. Also, scheduling visits and issues of guest access, especially regarding in-laws and ex-in-laws, may be a source of friction for multiple owners of cottages and other vacation homes.

There are planning solutions that may deal with these issues. For example, family members who wish to inherit can be given the opportunity to do so while leaving financial assets to other beneficiaries. However, if the vacation home is in another country, such as mainland Europe, which are civil law jurisdictions, there may be mandatory rules to pass property to spouses, children and other family members, and it may not be possible to simply pass a property outright to one's spouse or to other desired beneficiaries.

The first step in effectively dealing with personal issues when planning for a cottage or vacation property is to have an open discussion with the intended beneficiaries to find out their interest in ownership of the cottage and to discuss their ability to pay expenses, look after the property and their expected use of the property. Then appropriate planning can be implemented, after considering legal, tax and matrimonial issues. This is the first of a three-part series. We discuss tax and matrimonial issues in our next two articles.

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