

Case Study: Will Planning

Learning Objective: Assess the role of a Will as critical to true estate planning including achieving fulfillment of the testator's objectives regarding estate distribution or tax minimization.

The Facts

Carrie is a 58-year old recent widower with three adult children. Although his children are all in their 20s, Carrie does not feel they would be mature enough to handle their share of his \$1,500,000 estate if he were to die within the next decade. Roughly \$700,000 of his estate is tied up in the shares of his private company.

Carrie's eldest son is involved in the company. There is an unfunded shareholders' agreement that provides the son with the right to purchase, on an installment basis, all of the company shares in the event of Carrie's death, disability or retirement.

Carrie would like to provide for his youngest son who is semi-dependent on him and who has less promising life prospects than his two siblings.

This all raises a number of dilemmas for Carrie, and he has sought your input before sitting down with his lawyer to draft a new will. Carrie is pondering the following questions:

1. Should he set up his estate as an outright distribution or some form of testamentary trust?
2. Who should he name as his executor(s) and trustee(s)?
3. Assuming Carrie has decided to use a testamentary trust, how might that trust be structured with respect to the distribution and allocation of income and capital?
4. Carrie is wondering if he could preclude his eldest son from entering into a same-sex marriage or common-law relationship by putting restrictions on his inheritance?
5. How might Carrie's estate plan accommodate the shareholders' agreement that he has with his son?

Question

Briefly suggest comments/potential solutions that you might offer Carrie in respect of any four of his questions listed in the case study scenario Facts.

Reference

- *257 Advanced Estate Planning Study Guide (pp. 2-22 to 2-25)*
- *Wealth Planning Strategies for Canadians, 2019 Edition (Chapter 19)*
- *Estate Planning with Life Insurance, 6th Edition (Section 7.2)*

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