Case Study: Family Estate Planning

Learning Objective: Explain how to tailor the estate plan to address the needs of a blended family and elderly parent.

The Facts

Ralph and Alice, both age 37, married six months ago. It was a second marriage for each of them. While the couple has no children together, Ralph has two minor children (Ben and Barb, who are twins) from his first marriage who live full-time with their mother. Alice has two minor children from her first marriage, both of whom live with her and Ralph.

Alice's ex-husband has no spousal support obligations in respect of Alice since she married Ralph, although she still receives child support. Ralph is responsible for paying a total of $1,200 a month in child support to his ex-spouse for the benefit of Ben and Barb for the next nine years.

When they married, Ralph and Alice immediately executed new wills and powers of attorney (poa) in favour of each other, with each other named as the sole executor and sole attorney of the other's estate. Their new wills and poa's have broad powers of discretion. The wills are mirror wills, providing for an outright distribution of all assets to the survivor, with each party's minor children being named as successor/alternate beneficiaries, in trust to age 30. The wills were prepared by Ralph and Alice using an internet-based wills kit.

Alice has little contact with or affinity for Ralph's twins, since they live with Ralph's ex-wife and she has painted a picture of Alice as the villain. At present, Alice earns $120,000 a year as a city planner, while Ralph earns $60,000 a year, on average, as a freelance writer. The couple's assets consist of the following:

Asset	Owner	Fair Market Value	Beneficiary	Other Details
House	Joint	$300,000		Principal Residence, debt-free
Cottage	Alice	$180,000		Debt-free
Stock Portfolio	Alice	$212,000		
Stock Portfolio	Ralph	$ 85,000		
RRSP	Alice	$160,000	Ralph	
RRSP	Ralph	$ 90,000	Alice	
Bank Account	Joint	$ 13,000		
Life Insurance	Ralph	$200,000 Face Amount	Alice	Life Insured is Ralph

When thinking about their estate plan, Ralph and Alice want to plan for the needs of one of Alice's children who suffered severe injuries in an automobile accident at age six and will likely be restricted as to earning power later in life as a consequence. Alice's widowed mother, meanwhile, has health problems that have restricted her ability to work, and Alice has been providing her with supplementary income payments for the past five years.

Question

Suggest six issues that should be considered and/or steps that either Ralph or Alice should take to protect the interests of his/her current and/or former families.

Reference

- *257 Advanced Estate Planning Study Guide (Chapter 3)*
- *Wealth Planning Strategies for Canadians, 2019 Edition (Chapter 5, 7, 8, 10, 13)*

Solution

- **Mirror Wills:** The couple's wills are currently set up with each other as the beneficiary of the other's estate with an outright distribution. Consider the option of a spouse trust to ensure that their respective children are the eventual beneficiaries of each other's estate.

  However, because they have used joint title and beneficiary designations, there is very little in either estate. For example, if it was important to them, they could register their home as tenants in common so that each half goes into the spouse trust and the survivor can stay there, but upon the death of the survivor, the proceeds would be divided between each family.

- **Child Support:** Provision should be made for the support of Ralph's children for the full 9 years, in the event of his death or disability. Disability/term life insurance payable to his ex-wife in trust might be an option to ensure the funding.

- **Estate Equalization:** Alice has an estate of $552,000, while Ralph's is only $175,000 (exclusive of their jointly-owned house and bank account). Absent a marriage contract, Ralph could possibly have a substantial equalization claim against Alice's estate in the event of marriage breakdown or her death.

- **Dependent's Relief:** In the case of the children living with the couple (Alice's), as well as in Ralph's case (he earns only 50% of what Alice does) there could be a dependent's relief claim in the event of a death. Again, insurance may fill this gap.

- **Support for Alice's Mother:** Alice's mother is financially dependent upon her due to disability. Depending on the jurisdiction in question, Alice (or her estate) may have a legal obligation to continue providing such support.

- **Beneficiary Designations:** The insurance proceeds payable to Alice could be established as an asset **subject** to claim by his children as part of Ralph's estate in the event of Ralph's death.

- **RRSPs:** The designation of each other as beneficiaries of their RRSPs could be changed to a spouse trust for each, to protect the interests of their respective children. This will result in the loss of the tax-deferred rollover, which should be weighed off against the protection for the children.

NOTE: Jurisdictional differences will have to be taken into consideration, depending on the province or territory of domicile of the student.