

Cake and the Eating of It

Sometimes the way we slice it matters in ways we never might have thought of.

You know the cake, or one like it. My eldest sister made it best, and passed along the recipe to my then fiancé at the bridal shower some 30 years ago. Its deliciousness is at least partly responsible for the personal floatation device which has gradually osmoted to the inside of my midsection over the past three decades.

Perfect in its imperfection, tomato soup carrot cake typically dries just a tad around the edges, and always stays moist and succulent in the centre, where it characteristically slumps about 1/4 of an inch. No worry. With a little skill, the orange-zested cream cheese icing can sort of Bondo over the slump, hiding the moderate dip with the stuff of stuffing.

If given the chance, I'll eat the first piece while the icing is freshly spread, and the cake is still steaming warm. I like to cut the cake in to perfectly equal squares, but I prefer to take the very first piece right out of the centre, because – do I really have to explain this? (I'm salivating), the icing is thicker there.

"It's an equal-sized piece of cake!" I argue, but those other people in my house are generally offended. I mean, they're generally offended in general when something comes out of the oven and I have a fork in my hand. Who thought it was safe to let me in the kitchen just then? There is usually yelling... words which just don't make sense to me. An angry, sort of muffled Charlie Brown's teacher dialect. Very strange. I stare back at them, eyes not comprehending any more than my ears. It's like my taste buds have overwhelmed all other senses. I am smiling, clutching my plate, while someone else -- a relative? A daughter maybe? She is crying. Weird. A couple of slices and a few minutes later, a modicum of regret materializes on me as I begin to feel like a pregnant dog at term. This is best resolved with another slice of cake and a nap.

Wills and ill Will. Sometimes equal isn't Fair

As with cake, the calculations in passing along an appropriate piece of your estate to each of those other muffled voices with forks in their hand is about much more than numbers. What is deemed to be fair by one hungry beneficiary may not necessarily translate to equal, and the giver's interpretation of what's fair may not be in sync with the children's. These inconsistencies may be the source of significant issues down the road, ranging from resentment and family conflict to outright legal challenges to a Will if an individual feels they have been slighted. This is the stuff that makes lawyers fat.

The Skinny on Leaving a Legacy

Trends seem to indicate that claims against estates may be on the rise. Canadian statistics regarding estate litigation have not been tracked historically, but in Ontario, information is starting to be collected. Based on unofficial data gathered for 2012/2013, it appears that approximately 1 in 9 estates are contested in court. Anecdotally, when this happens the potential for ill will is tremendous.

This highlights the importance of looking at the complete spectrum of factors and placing the main focus on dividing assets *equitably* rather than equally. At the end of the day, it's about finding the solutions to strike the right balance, depending on your individual circumstances, and ensuring family communication is duly diligent.

Why fair may not always be equal – it's more than the icing on the casket, I mean... cake.

Taxable vs. non-taxable assets.

When planning asset divisions during estate planning, it's important to consider whether there are tax impacts which may create an unfair burden on one beneficiary over another. While some decisions may seem equal on the surface, post-tax implications may throw off that intended balance. For example, if an individual opts to designate one child as the beneficiary of a registered plan and another child to inherit the after-tax residue of the estate, there are a range of things, such as the taxes on an RRSP/RRIF and capital gains on any non-registered assets, which could significantly decrease the after-tax residue. As

such, it's important to work with a qualified professional advisor to ensure that the tax aspects are adequately accounted for.

What about Cinderella's share?

Evil step mothers aside, this is tricky business in any setting. In a blended family, the lines are often blurred as to what is deemed to be either fair or equal. There may be legitimate competing priorities within the family. Some feel strongly about providing for their children from their previous relationship but not the same as for their stepchildren. In this situation, discussing your intentions takes on a heightened level of importance, as does working with a qualified professional to find approaches to which ensure financial and legal protection. As discussed previously, certain trust structures may be helpful here. Other ways to help equalize include life insurance, or a portfolio earmarked for a certain child. All and all, this is about as tricky as making the money in the first place, and should not be taken lightly.

Next week we will discuss more key ingredients in the complex cake of next-generation planning.

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