THE GLOBE AND MAIL

What to consider in financial, tax and estate planning for members of the LGBTQ+ community

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Financial, tax and estate planning for LGBTQ+ clients are largely similar to heterosexual clients, but there are some nuances advisors should keep in mind to ensure they're providing specialized guidance.

"As a member of the community, it's front and centre for me. We're fortunate to live in a country where a lot of rights are protected, so we do have benefits," says Stuart Gray, director of the Financial Planning Centre of Expertise at Royal Bank of Canada in Toronto. "But there are some loopholes and things that are important to draw attention to."

For example, an important financial planning concern for transgender Canadians is the cost of gender affirmation procedures, Mr. Gray notes.

Transitioning can include a host of costly medical procedures, including top and bottom surgeries, facial feminization or masculinization, voice pitch surgery and speech therapy.

Advisors can help their clients understand where provincial government coverage for gender affirmation procedures start and stop and how to plan for medical expenses that aren't covered – including whether they can access coverage through their employee benefits package, Mr. Gray says.

Several Canadian employers have stepped up in recent years to provide financial support for gender affirmation.

When it comes to tax planning, Bernardine Perreira, financial advisor with Perreira Wealth Advisory at Raymond James Ltd., says it's important to ensure common-law partners are filing their taxes together.

"Should one spouse pass and they [weren't] filing jointly, they wouldn't be entitled to spousal [Canada Pension Plan payments] or would have to mount a really strong case," she says.

Mr. Gray notes that filing together can allow a couple to benefit from spousal registered retirement savings plan contributions and ensure they're maximizing their tax deductions and credits, and for older LGBTQ+ couples to benefit from income splitting between both parties.

Long-time couples who've chosen not to live together can't take advantage of the common-law tax provision unless they're the birth or adopted parent of their partner's child, he adds.

"It's really no different than a heterosexual couple because oftentimes they don't file household taxes as well, but [it's important to have] an understanding of how does the [Income] Tax Act look at your relationship and making sure you're taking advantage of spousal or common-law opportunities," Mr. Gray says.

It's also key for couples to understand the legal implications of being common-law or legally married, which can impact what rights they have on separation or death, he adds.

During a 2021 webinar on tax and estate planning considerations for LGBTQ+ Canadians, Jamie Golombek, managing director, tax and estate planning at CIBC Private Wealth Management, said LGBTQ+ clients who are planning to have children should be aware of in vitro fertilization and adoption expenses that can be covered by the medical expense tax credit.

These include most reproductive technologies-related costs, fees paid to an adoption agency and foreign institution, court costs and more.

When family gets involved

Furthermore, Ms. Perreira stresses the importance of ensuring LGBTQ+ clients have wills and powers of attorney for both financial affairs and personal care in place. While she notes this is important for all clients, it may be especially necessary for a common-law LGBTQ+ couple to clarify their wishes if either partner has family members who are unsupportive of their relationship.

A CIBC poll from 2021 shows only 39 per cent of the LGBTQ+ community has a written, legal will – below the Canadian average of 47 per cent.

Without these protections in place, one partner could face a challenge from their common-law spouse's family over the right to their property or could be pushed aside and unable to participate in health-related decisions for their partner, Ms. Perreira says.

"It's just so important to have it down on paper, especially for our community with the challenges in family situations," she says. "Hopefully, there's less of that today, but it still does exist."

Sara Cohen, partner at D2Law LLP and the founder of Fertility Law Canada, says there are also estate planning implications for same-sex couples planning to conceive through

surrogacy that advisors should be aware of.

Under the federal Assisted Human Reproduction Act, individuals can allow their partner to use their sperm or eggs for reproductive purposes after their death if they choose, but the person must give advanced consent in a legal document. She says if the couple's plan is for one partner to contribute either their sperm or eggs to make embryos with support from a donor, they may want to write that consent into their will in advance.

"Plus, if you [would] want that child born after your death to succeed [you], you also have to spell that out and say, 'I want to be a legal parent of that child even though they're born after my death,'" she says.

She notes the issue of testamentary guardianship may come up for couples who use surrogacy for the period before they're both deemed the legal parents of the child.

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