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# Who gets the family cottage … and how?

## Holding onto memories while letting-go of ownership

Some of the hardest estate planning decisions are not about dollar values, but about personal values. A prime example is the family cottage, where the memories are many, and the mere mention of letting-go can be painful.

Unfortunately, it's not much easier on parents who intend to keep it in family hands rather than sell to strangers. Among those you love, it can be even more emotionally troubling to decide when, how and to whom ownership will pass.

To prepare for these tough choices, it's helpful to have a clear understanding of tax and legal rules so that you can anticipate hurdles and consider options.

## Tax liability for parent as seller/transferor

Apart from spousal transfers, a change in beneficial ownership is a taxable disposition. Half the increase in value from the adjusted cost base (ACB) to the fair market value (FMV) is added to the seller/ transferor's income for that year. The ACB is generally the acquisition price plus capital improvements.

The tax bill could be reduced by claiming the principal residence exemption (PRE), though that would limit use of the PRE on a future disposition of other concurrently owned residential properties.

## Options for passing ownership to one or more adult children

In an arm's-length sale, a seller transfers ownership without control or concern as to how that arm's length purchaser holds title. In family situations, there are more options that parents may consider:

### Direct transfer to one child

Even if little or nothing is paid in return, a full disposition is deemed to occur at FMV for purposes of calculating the capital gain. Thereafter, the child has all rights of ownership.

### Adding joint owners

A proportionate disposition is deemed for each added owner. For example, a widowed mother who adds 2 sons is deemed to dispose of 2/3 of the value. The later death of any joint owner is a disposition of that person's share, with the survivors continuing to own the property together.

### Using tenancy-in-common

A parent could direct a specified percentage to transfer to one or more children, to be held as a tenant-in-common. Like joint tenancy, there is a disposition on initial transfer and on an owner's death, but the deceased's rights pass to his/her estate, not to the surviving owners.

### Tax-deferred trust transfer

Parents over age 65 could transfer the cottage into an alter ego or joint partner trust for their current benefit, with the children as contingent beneficiaries. The property is not deemed disposed until both spouses die, at which time capital gains would be calculated and tax due.

### Transfer to a lifetime trust

The parents may be content to trigger a taxable disposition to a trust now. They could maintain legal control as trustees, with future gains accruing to the children as beneficiaries.

### Estate distribution possibilities

If the cottage is held to the second spouse's death, the capital gain arises at that time. The cottage could then be transferred to the children (tenants-in-common or joint owners, as desired) or continue to be held in trust according terms as outlined in the last deceased's Will.

## Funding the tax liability

Allowing that the PRE may be claimed in some situations, tax on the capital gain is usually inevitable. And if it's large, the decision may be to delay triggering it until death. Parents could buy joint last-to-die life insurance to pay the tax, or allow that other estate assets will have to be sold to raise the needed cash.

**For more information, please consult your financial advisor and tax professional.**