

Source: <http://www.finance-investissement.com/nouvelles/developpement-des-affaires/reee-le-choix-de-l-heritier-importe/a/42540>

RESPs – Choosing the Right Successor Subscriber Matters

06/15/2012 - 08:50 - GUILLAUME POULIN-GOYER

IQPF CONGRESS – A poorly-prepared will can significantly deplete the funds your clients have set aside for their children in a Registered Education Savings Plan (RESP).

This warning was given by Caroline Marion, Account Manager of Estate Settlements at National Bank Trust, at the Congress of the *Institut québécois de planification financière* (Quebec Financial Planning Institute / IQPF).

This situation comes down to a lack of knowledge about the legal ownership of RESP subscriptions. “Many people do not consider naming a specific person to inherit the RESP. They believe that the money belongs to the beneficiary. But that is not the case. In an RESP, the money from contributions continues to belong to the initial subscriber,” Marion explains.

When the subscriber dies, only the income and grants are paid to the child. The savings from contributions go to the successor subscribers, who are not necessarily the RESP’s beneficiaries. “I need to think about whom I want to inherit the savings when I pass away—either the child, or someone who will ensure that the funds are used to the child’s benefit. But very few people consider naming a specific person to inherit the RESP. The RESP often ends up in the residue of the estate and gets passed on to people who may have no relation to the RESP’s beneficiary.”

Since the RESP’s successor subscriber is able to withdraw the funds when the subscriber passes away, it is important to choose this person wisely. The best option is to choose an trusted adult who isn’t in financial difficulty. “Regardless of whom I choose, this person will be able to withdraw the funds or be forced to do so by their creditors. If they become bankrupt, the funds in the RESP will be seized by trustees,” Marion explains.

But before deciding to name the RESP’s beneficiary as the successor, Marian offers these words of caution: “If the children are minors, that can cause more problems than passing it on to the surviving spouse.”

If a child receives an inheritance of \$25,000 or more, the government will be poking its nose into your clients’ finances. “Upon death, the executor of estate has an obligation to inform the Public Curator of the fact that over \$25,000 has been passed on to a minor. The surviving parent will then be forced to put together a family council and appoint members to form a tutorship council. This council will monitor how the surviving parent manages their

child's assets until the child turns 18. This process must take place in the presence of a notary or lawyer, and costs between \$2,500 and \$3,000," says Marion.

Three people are appointed to the tutorship council—often, the child's grandparents, uncles or aunts. "The surviving parent will be required to provide a security to the effect that they will not steal the child's money. This security often takes the form of a freezing of funds or a mortgage on their property. They then have to submit a management report every year to the Public Curator's Office detailing how they have been managing the child's assets. This process goes on until your children turn 18, at which point the spouse is required to surrender the funds to the children, and the curator contacts the children to ensure that they have fully understood," adds Marion.

All this hassle can be avoided by carefully modifying the provisions of the will that deal with RESPs.