

A SPECIAL ARTICLE ON

ESTATE PLANNING

ESTATE DISTRIBUTION IMPLICATIONS OF SIMULTANEOUS DEATH OF HUSBAND AND WIFE

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A birthday celebration, for Eve, turned into a tragedy for a Singaporean couple, Adam and Eve, who were married for six years. They lost their lives in a car accident, on a vacation in New Zealand. They did not have children, but their elderly parents survived them. While their family members were suffering from emotional trauma, there was a financial implication in terms of their estate distribution. In the absence of a will, as Adam is older than his wife, Eve, he would be deemed to have died first if it was impossible to determine otherwise.

This is the legal position in Singapore, which is spelled out in Section 30 of the Civil Law Act (Presumption of survivorship in regard to claim to property). Therefore, the Adam's estate (the assets he has at the point of his death) would be distributed according to the Intestate Succession Act. In this case, 50% of Adam's estate would go to Eve and become part of her estate (the assets she has at the point of her death) and 50% would go to his surviving elderly parents. As Eve died without a will as well, her total assets would again be distributed according to the Intestate Succession Act. In this case, 100% would go to her surviving elderly parents. As Adam and Eve co-owned a HDB flat in joint tenancy, the flat would go to Eve's elderly parents in this event of a simultaneous death.

Now let's pause for a while. If you were Adam, would you want to leave the estate distribution to Intestate Succession Act, and accidentally leave out your elderly parents? Or would you want some control over the distribution of your assets in order to express your love and discharge your duty as a husband and as well as a son to your elderly parents? Adam's parents were depending on him for daily expenses; now they have not only lost a son, they also lose the income from him, and half of his assets, which could have help them to mitigate the fear of out-living their retirement assets in the increasing expensive Singapore environment. On the other hand, if Adam had done a holistic estate planning with capital and liquidity considerations, he would have made a will to choose who will be entitled to his assets after his death and in what proportion. He may even include a survivorship clause in his will. This clause could state how long a person must have survived after his death to be considered as having "survived" him. As a result, his assets would be distributed according to his wish. He can also create the necessary estate capital by using a life policy and use insurance nominations (Section 49L or 49M of Insurance Act) or assignment of life policy to direct the estate capital to the targeted beneficiary at the right time and right amount, out of Adam's probate.

Good holistic estate planning with capital and liquidity considerations can bring a family together. I'm sure you have heard of a situation in which family members argued over what the deceased left them as beneficiaries. It is very disheartening to hear such stories. On the other hand, creating a well thought estate plan can strengthen the bonds of love in a family because when you get your loved ones involved in your estate planning process, you gain a wonderful opportunity to show them how much you love and care for them. Proper estate planning may not bring a family together, but it will definitely help to prevent bitter arguments and ugly court cases. Do not let your good intentions of leaving an inheritance become the reason for your family to fall apart.

**The name of the characters in this article has been changed to respect the privacy of the family.*

About the Author

Ms. Sissi Goh is a licensed financial practitioner in Singapore. She belongs to the millennial generation and is an author of a book ("Wealth Management Isn't Just for the Rich"). She is currently a member of Insurance and Financial Practitioners Association of Singapore (IFPAS) and is serving in the association's education and training working committee. Sissi graduated with a Master of Public Administration in International Finance Policy and Management, from Columbia University, in the City of New York.