



John Armstrong CFP

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John Armstrong, CFP®

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The Value of Advice

It is not possible these days to watch a sporting event on TV without seeing the aggressive ads for various on-line investment providers, known in the industry as 'robo advisors'. We find the one claim, 'retire up to 30% wealthier' to be particularly concerning. As with so many things in advertising, you are well advised to check the fine print behind this number. Claims aside, the inference here is that fees are the only consideration in investing, and in fact no other factors are addressed by the commercials. The broader and unaddressed issue here is the value of advice around money.

Human beings did not evolve with money. We understand the concept of reciprocity and many other practical values, but the brain did not evolve with the existence of money. Do a simple exercise: visualize a nice big bowl of fresh ripe raspberries. We all know exactly what to do with those raspberries. Eat them. Now picture a \$100 bill. Ask yourself what is it? All kinds of answers are possible, ranging from "it's a piece of paper (actually plastic these days)" to "\$75 American dollars". But the \$100 can be many things - a tank of gas, a dinner out, groceries... you get the picture. Money is representative, and for that reason it is emotional. Money is so ubiquitous we cannot even imagine life without it. It is strange to think that it has not always been this way.

One's personal and emotional relationship with money is developed over a lifetime. Attitudes that form over those years can be positive or negative. I find that many people have attitudes towards money that are counterproductive to their personal situations. As an advisor, I spend much of my time in a counselling role.

Over the years, I have developed a general framework that I use in counselling people around money. The chart on the next page is developed from Erikson's Stages of Psychological Development. I have translated Erikson's work somewhat to help define people's evolving relationship with money. The key to understanding Erikson is the idea that people must learn lessons in order to graduate to the next level of maturity. I feel that the same concept applies to money. While reading and understanding this chart is not critical to the point of this article, you may find it interesting.

Counselling people of different ages, I have different expectations of the people I meet. I try to assess where they are on the chart and what they need to do in order to graduate to the next level of maturity. Income and Expense Modelling (the financial planning approach we take) is the key process used to help me gain the understanding I need in order to effectively counsel. As people open up about their finances, I get a better understanding of their circumstances.

As people march through time they will move through these stages of maturity. Many times, people will move to the next level in a natural way, not even realizing the shift. But often people are caught somewhere and need some coaching to gain the positive outlook on their finances. Rome was not built in a day. This will often take many years of consistent messaging and affirmed advice to get people to move along to the next level of maturity around money. The bottom line is, money is an emotional subject. The chart explains some dysfunction and is informative in helping people over time.

Unfortunately, money can be a lightning rod issue. In couples this can be magnified. Many things can get blamed on money, when in fact there may be a deeper issue at work in the relationship. In my office we focus on getting the money issues off the table quickly, allowing clients to focus on the real issues. Competing goals and desires can also be discussed.

People wish to save for the future in order to be secure, but they also want to live now, spending money on some of the better things in life, whatever those are for them. This is of course just as important for a single person. They want to know that their financial future is secure and to have a solid plan for getting there.

In this article I have not talked about investment advice, estate planning, tax planning, retirement income planning, employment issues etc. I have taken the time to explain this counselling process in detail because I feel *it* provides the most value to clients. When I compare the on-line investment services offered by the firms using the aggressive advertising campaigns to the role that we take with our clients, it's clear that our value goes well beyond simple investment advice. My experience tells me a long-term relationship with a CFP Professional will be of tremendous value over the years. This office will continue to be at your beck and call whenever those tricky situations arise. I look forward to our ongoing relationship.

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Stages of Financial Maturity



Age	Stage	Challenges	Life Task
0 to 12	Childhood	Witness to Family Attitudes	Security vs. Fear
12 to 18	Adolescence	Limited resources, Consumption with little or no responsibility, Understanding the difference between good and bad choices	Learning to choose ('you cannot have everything') vs. Unrealistic expectations
18 to 26	The Critical Years	Low cash flow combined with new responsibilities, A brief time of poverty, Delayed gratification, Introduction to financial instruments like bank accounts, debit and credit cards, maybe RRSP's	Positive attitudes and a habit of good choices, Good lessons learned in poverty, Money does not make you happy vs. Disillusionment and continued poverty, No values other than money
26 to 35	Early Adulthood	Create disposable income, Pent-up consumption, Healthy attitudes shared with spouse, Understand competing goals and objectives, Commit to cash flow and long-term obligations such as a mortgage, Use of financial instruments such as pensions, RRSP's, GIC's, mortgages...	Working towards a position of strength financially vs. Constant struggle and debt, Misuse of financial instruments
35 to 45	Choosing One's Path	Increasing level of complexity, Commitments to cash flow, Adoption of a longer-term view, Values-based decisions, Engagement of some sort of financial advisor	Ability to choose, Success with financial instruments, Becoming proactive and establishing a trust relationship with a financial advisor vs. Feeling trapped, cheated and disillusioned
45 to 50	Mid-life	Gaining a position of strength, Ability to choose, Trust in some sort of professional Financial Advisor, Create a proactive plan, Confidence in the future	Come to terms with limitations and working within the limitations, Achievement of some target vs. Creating long term problems
50 to Retirement	Middle Adulthood	Peak earning years, Reaping the rewards of proactive behaviour, Total control	Security vs. Turmoil, Situations change but attitudes may not, Missed opportunities like gifting & charity
60+	Later Adulthood	Transitional time, Deal with 'Retirement', Deal with physical realities, Seek meaningful activities, Concept of stewardship, Witness to generosity	Reaping rewards and satisfaction, Charity, Gifting vs. Hoarding, Confusion, Attempts to control the uncontrollable



Pivot on Probate

I will start out by saying that if you are married, in most cases everything passes to your spouse upon death with few or no issues. The following article deals with the death of a single person or the death of the last surviving spouse.

Probate is a term that was used to describe the Operation of the Will. The new language around the Operation of the Will is 'The Certificate of Appointment of Estate Trustee with a Will'. This process has recently changed significantly enough that some lawyers have pivoted on their advice. For many years lawyers would tell clients to use the probate process to achieve the things that they would like to do with their Estate. Fancy footwork to avoid the probate process was not worth the risks involved because Probate was not a difficult or expensive process. *This is still good advice for most people.* Given my experience in dealing with many estate situations, I often seconded this advice from the lawyers.

Due to recent changes to the 'Estate Information Return' required by the Certificate Process, some lawyers have pivoted on this advice. They are now advising people in their later years, who have a relatively short time to live and who have a simple estate, to do things to avoid probate; even some things that involve some obvious risks.

In order to understand this further, let's discuss what the Operation of the Will is. In the province of Ontario, the 'Certificate of Appointment of Estate Trustee with a Will' is needed to deal with assets that end up in 'The Estate of...'. If a person dies, they cannot own anything. So what happens to everything that the person owned? It is 'deemed disposed of' the day before death. Many assets the person owned can end up in 'The Estate of...' that person. The Will names the person who is to be in charge of this new entity called 'The Estate of...'. This

named person must go to the provincial court and apply for the 'Certificate of Appointment of Estate Trustee with a Will'. With court approval, this person becomes the Personal Representative (formerly called the Executor) in charge of 'The Estate of...'. This is the process that has recently changed, more on that later. This Personal Representative now has the legal authority to deal with assets in 'The Estate of...' and the duty to follow the wishes as laid out in the Will. Companies that would have only dealt with the legal owner will now deal with the Personal Representative.

The Will can also have many stipulations such as contingent beneficiaries, contingent representatives and may handle charitable gifting wishes. As you can see, the Operation of the Will serves a very useful purpose. A properly constructed Will allows the Personal Representative to accomplish virtually anything the deceased would have done if they were alive. The court charges a small administrative tax, previously called probate fees, for this effort. It is also the Representative's responsibility to pay any debts and taxes owed and then to ultimately distribute the assets left in the estate to the named beneficiaries as stated in the Will.

Many assets do not have to enter 'The Estate of...'. Assets can pass directly to the new owner using 'Operation of Law' and bypass the estate completely. 'Operation of Law' is a process generated by decisions made at the time of account setup. Here are some specific ways that assets can pass using 'Operation of Law':

Jointly Owned Assets - Joint with Rights of Survivorship (JWROS)

Many family accounts such as bank accounts and investment accounts are jointly owned. Joint accounts are deemed disposed of and taken over in



their entirety by the joint owner or owners upon the death of one of the other owners. Many family homes are also owned jointly between spouses. When one owner dies the other owner assumes ownership entirely.

Named Beneficiaries

RRSP and RRIF accounts, TFSA accounts, segregated funds, annuities, pensions, and life insurance policies can all have a named beneficiary in the account setup. If the account holder dies, the money goes directly to the named beneficiary. These assets do not enter into 'The Estate of...'. In most cases the beneficiaries can also be changed at any time.

The Ontario Government has recently changed the 'Certificate Application Process', in particular the 'Estate Information Return'. This return has become much more onerous. Furthermore, the liability that goes with itemizing and valuing all assets of the deceased's is substantial. This valuation process is time consuming and wrought with potential problems. For example, the 'Estate Information Return' can be chosen for audit by the government for up to four years, or more if the return was not filed within 91 days after probate. If it is audited and errors are found, the penalty is a fine of up to \$2,000 plus 2 times the fees that were not paid. A prison term of up to 2 years may also be handed down. The 'Estate Information Return' has significantly increased the time, effort and liability required to deal with an estate. This has caused many lawyers to pivot on the advice around the 'Certificate Process'. So what are some lawyers now advising?

John Armstrong is a **CERTIFIED FINANCIAL PLANNER**. Financial planning and financial planning education are his key areas of interest and expertise.

Achieving balance in our lives is critical; a balance between work and family, a balance between living for today and planning for the future. Because we all have competing goals, striving for balance influences many decisions in our day-to-day lives. One thing is certain, the juggling act we do requires a long-term view. Sometimes we need to take a step back to put things into perspective.

It may sound cliché, but having a plan in place goes a long way in helping to achieve both our long and short-term goals. Simply put, planning assistance is the service we provide. We are committed to helping you find that long-term view for the good of today and tomorrow.



John Armstrong 

STERLING
MUTUALS INC.
Independent Financial Network

Contact Us

279 Weber St. N
Lower Suite 3
Waterloo, ON
N2J 3H8

Phone: 519-576-5766
Fax: 519-576-0192

E-mail: johna@jarmstrong.ca

Website: www.jarmstrong.ca

Newsletter Editor: Rich Weiler

Pivot—continued

Some lawyers instruct clients of a specific profile to use 'Operation of Law' to move financial assets to the beneficiaries. It is a two-step process. First, the client picks someone they trust to become the beneficiary or joint owner of all assets. The person who is chosen then receives an undertaking to distribute the assets as a gift, according to the deceased's wishes.

Courts have backed this up by acknowledging that there are several kinds of joint accounts. Some are truly the shared assets of more than one individual, while others can be made joint simply for the purpose of easing the burden of the Estate. In the latter case, there is no income tax due upon creation of this joint account and income from the account need not be shared for tax reporting.

This strategy can create problems that lawyers typically like to avoid. Firstly, the person who is the joint owner... is the joint owner. They could spend the money, borrow against the account, or encumber the money in some other way. Also, following the death of the true owner of the assets, they could decide to keep the money and not distribute it.

Secondly, this strategy of avoiding the 'Certificate Process' is either all or nothing. If the deceased owned an asset like copywrite with royalty payments, business as-

sets, tenants in common assets, or is holding share certificates of a company directly, not through a brokerage account, these assets may need a certificate to change hands. People owning assets like these will not likely be able to engage the 'Operation of Law' strategy to avoid the 'Certificate Process'.

Also, this strategy may not be appropriate for blended families, where there are children from more than one relationship. Legal advice should always be obtained. The bottom line, this strategy is risky. If some lawyers are encouraging this kind of risky behaviour, it gives you some indication how daunting the 'Certificate Process' has become. This strategy should only be used in certain circumstances.

Using 'Operation of Law' to avoid the 'Certificate Process' may be the right fit for people who have very straight forward situations and where all family members and their spouses get along. Also, the time frame should be relatively short because things can change. For example, what if it was assumed that the remaining parent would die first, but in fact the child who owns everything jointly dies first? We have a problem. Order of death is a particular problem that a properly prepared will can contemplate well. Also, life situations can change. What if the joint owner re-marries or has a new common-law spouse. How

will that effect this strategy?

As with so many things in life, communication is the secret sauce and it is critical to this strategy. All beneficiaries should be informed that this strategy is being used and how it will work. If there is any inkling that conflict may arise, this course of action is not appropriate. The 'Operation of Law' strategy serves as an 'end time' strategy and should not be contemplated until that point. And I cannot emphasize enough the element of trust that is required.

The undertaking provided to the person who is designated to receive the assets must address the income tax obligation of the deceased. The tax situation should be well understood by that individual, and adequate allowance for the tax liability must be made prior to asset distribution according to the wishes of the deceased.

If you decide this strategy may be appropriate for you or your loved ones, please bring me in very early in that discussion. After that, lawyers will need to be consulted to create appropriate undertakings that provide instructions to trusted joint owners and beneficiaries. This is a very important topic. If it is of interest to you, I would be happy to discuss it further, either during our next meeting or by phone.

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