Welcome to FOCA's "Ask the Expert" series – "Passing the Torch." Each month, estate lawyer Peter Lillico will answer a member question about cottage succession.

March 2025 – ***QUESTION from John K****:*

Can I appoint my son to be a joint tenant along with myself and wife while we are still alive? To avoid paying capital tax?

Peter says… Here is the answer to John's question:

You can make your son a joint owner, but please don't. This approach may avoid provincial probate tax but won't avoid federal capital gains tax. In fact, it will trigger capital gains tax because transferring one third of the cottage to him as a joint tenant will be treated by Canada Revenue Agency as a disposition of taxable property. Even if you gift it to him, for tax purposes it's taxed the same as if it was sold for full fair market value.

Also, if your son is an owner, the cottage will be vulnerable to any marital or financial problems he may have the misfortune to encounter. A divorcing spouse will claim one third of the value of the cottage as a matrimonial home, and a creditor will attach an execution against the whole cottage, not just your son's share.

To learn more about capital gains tax, register to attend an upcoming FOCA event with Peter Lillico, or purchase access to a recording of one of his past talks: https://foca.on.ca/cottage-succession/#buy