

A WILL PLANNING CHECKLIST

Before writing a will, or when reviewing your current one, you'll need to make some significant decisions. We've created a checklist of issues and areas of concern you may want to discuss with your advisor before getting started. While every situation is different, we've covered the most common estate questions here:

PRELIMINARY MATTERS

What limits are there on your estate?

- Have you reviewed any divorce, cohabitation, shareholder's agreements or other legal documents to determine any limits on your estate plan?
- Do you have vacation property or other assets outside of Canada that may require specialized advice?

CHOICE OF EXECUTORS AND TRUSTEES

Executor

- Who is the best person to be the executor(s) (liquidators) for your estate? Who is best suited to be your personal or financial care power of attorney?
- Is your estate complex or are there other concerns that may require a professional executor (liquidator) or attorney?
- Have you discussed the residency of your executor (liquidator) with your advisor? Foreign residence of either an executor or a trustee may have a detrimental effect on the tax efficiency and administration of your estate.
- Have you spoken to your preferred representative to find out if they:
 - ✓ Are willing to act?
 - ✓ Have the time to administer an estate or act as a power of attorney?
 - ✓ Have the knowledge and professionalism to understand and carry out their duties?
 - ✓ Have concerns about whether their appointment may cause conflict in your family or with other beneficiaries?

Trustees

Do you foresee your estate being held in a trust for several years? If so:

- Have you discussed the residency of your trustee with your advisor as foreign residence may have a detrimental effect on the tax efficiency and administration of your estate?
- Who is the best person to act as trustee of assets held for one or more of your beneficiaries?
 - ✓ Is this person willing to act?
 - ✓ Do they have the time to act?
 - ✓ Do they have the knowledge and professionalism to understand and carry out their duties?
 - ✓ Will they cause conflict in your family or with other beneficiaries?

SPECIFIC ASSETS TO CONSIDER

Do I have assets that require special consideration?

Assets passing outside my estate

- Registered products, insurance products and other assets with beneficiary designations. Note that, in Quebec, insurance products can have beneficiary designations.
 - ✓ Have you reviewed all registered accounts and insurance policies to ensure appropriate beneficiaries are in place?
 - ✓ Have you contacted your current or former employer to ensure any employer-sponsored pension plans are properly designated?

If you have jointly held assets:

- Have you left sufficient instructions to establish whether a joint account is being held in trust for your estate or passes directly to the joint owner (for Quebec, the joint account will be frozen until it passes to the estate)?
 - ✓ Have you considered the value of these assets and the tax ramifications when determining the scheme of distribution in your will?

Assets with sentimental value

- Do you have family heirlooms or other sentimental assets you wish to distribute to specific people?
 - ✓ Have you spoken to family members about your wishes?
 - ✓ Have you considered listing these items in your will or separately as part of a memorandum or wish list?

Digital assets

- Do you have assets which are held digitally?
 - ✓ Have you ensured proper clauses are included in your will to allow the executor (liquidator) to deal with them?

Other assets which may require special planning

- Do you have any assets that need special consideration such as:
 - ✓ A cottage/chalet or other recreational property. If so:
 - Do you wish to direct in your estate plan that the property be sold or do you wish to leave it to family?
 - If the cottage is to be sold, have you considered offering any beneficiaries the right of first refusal?
 - Have you discussed with family whether they wish to inherit and, if so, how decisions will be made to avoid conflict going forward?
 - ✓ A private business. If so:
 - Do you wish to direct the business to be sold or do you wish a beneficiary to inherit it?
 - Have you considered whether an estate freeze is an appropriate step for you?
 - Have you discussed with your advisor how to best utilize the lifetime capital gains exemption?
 - Have you discussed with a tax advisor and your

estate executor (liquidator) the creation of a pipeline plan if your beneficiaries do not wish to continue with the business?

- ✓ Intellectual property, such as trademarks, copyrights or industrial designs.
- If you have other assets that require special planning, have you considered:
 - ✓ Who you wish to inherit those assets?
 - Have you received the specialized advice you will need to ensure a smooth and tax-efficient transition?

Legacies

- Are there individuals or causes to whom you wish to leave a one-time gift?
 - ✓ Have you considered what form the gift should take (e.g., in-kind or in cash)?

Your Beneficiaries**Preliminary questions**

- Do you wish to treat all beneficiaries equally or are you treating beneficiaries differently?
 - ✓ Have you considered how to communicate this to them?
- Do you have circumstances or family dynamics that may affect how your estate should be distributed such as:
 - ✓ A second marriage
 - ✓ Children from previous relationships
 - ✓ Beneficiaries with special needs/disabilities/spendthrift beneficiaries
 - ✓ Elder care responsibilities
 - ✓ Minors

Minor children/disabled beneficiaries

- Who should be the guardian of your children or dependents with physical disabilities?
 - ✓ Have you spoken to your preferred representative to find out if they:
 - Are willing to act?
 - Understand your wishes for this child or person?

Have you reviewed any registered education savings plans (RESPs) to ensure they will continue?

- Naming a successor subscriber in your will can help to ensure the plan remains intact for RESP beneficiaries.
- Do you have disabled beneficiaries who require special consideration? If so:
 - ✓ Have you reviewed provincial disability benefits to ensure your estate plan is worded appropriately to protect them and any income or asset-sensitive benefits?
 - ✓ Are other family members contemplating leaving a gift for the disabled beneficiary? If so, have you ensured both plans are set up so they do not adversely effect the disabled beneficiary's benefits?
- Have you considered the terms under which your child or disabled beneficiary's inheritance is to be held:
 - ✓ What age should a minor child obtain their inheritance?
 - ✓ Can the minor child or their guardian access some of the funds before they eventually inherit? If so, for what purposes?
 - ✓ What happens if the child dies before the distribution date; who inherits the funds?

Trust

For all trusts created as part of your estate plan:

- Have you considered which type of trust (if any) might best meet your needs (e.g., spousal, Henson if required, family)?
- What type of authority should the trustee(s) have?
- What should happen upon the death of trust beneficiaries or trustees?
- Have you considered naming a financial advisor you would like your trustee to retain? If so:
 - ✓ Have you shared your estate plan with the advisor to ensure the right investment clauses are set out in your will?
- Have you discussed whether the executor (liquidator) or trustee is to be paid? If so:

- ✓ Have you discussed with your advisor the options available to effect payment, especially if the executor or trustee is not a beneficiary of your estate or trust?
- ✓ Do you wish to enter an agreement with your executor (liquidator)/trustee?

Other Considerations

- Common disaster clause
 - Who will inherit if all the beneficiaries in your estate plan predecease you?
- Funeral instructions
 - Do you wish to include instructions for funeral arrangements or the disposition of your body?
- Pets
 - Have you considered who will care for any pets you might have? If so:
 - ✓ Do you wish to set out a financial stipend to assist in their care?
- Loans to a family members or other beneficiaries
 - Have you loaned or gifted funds to a beneficiary? If so:
 - ✓ Do you wish to forgive the loan as part of your estate plan?
 - ✓ Do you wish to take into consideration the gift or the loan and reduce the beneficiary's inheritance?

Other factors to discuss with your advisor:

- Has your estate been set up so your family adequately manage the assets that you leave them?
- Where it makes sense, have you explored all options to reduce the taxes your estate will pay?
 - Rollovers
 - Charitable gifts
 - Beneficiary designations (In Quebec designations on insurance products)
 - Joint ownership
 - Multiple wills
- Will your estate have sufficient liquid assets to pay death taxes? If not, have you considered insurance in your planning?

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