



ESTATE PLANNING

Quick reference card

CURRENT TO JANUARY 15, 2021

Provincial intestacy rules^{1,2,3}

Province/ territory	Spouse and one child	Spouse and children
AB	If all children are also children of surviving spouse, entire estate goes to spouse; if any of the children are not also children of the surviving spouse, the spouse gets the greater of \$150,000 or 50% of the value of the estate, and the children receive the remainder of the estate.	
BC	If all children are also children of the surviving spouse, first \$300,000 + 50% of the balance goes to the spouse; if any of the children are not also children of the surviving spouse, the first \$150,000 goes to the spouse, 50% of the balance goes to the spouse, 50% of the balance to the intestate's children equally.	
MB	If all children are also children of surviving spouse, entire estate goes to spouse; if any of the children are not also children of surviving spouse, greater of \$50,000 and half of the estate goes to the spouse. Remainder of estate is split 50% and 50% between spouse and children.	
NB	Marital property to spouse; balance split equally.	Marital property to spouse; 1/3 balance to spouse; 2/3 of balance to children.
NL	Split equally.	1/3 to spouse; 2/3 to children.
NT ⁴	First \$100,000 to spouse; balance split equally.	First \$100,000 to spouse; 1/3 of balance to spouse; 2/3 of balance to children.
NU ⁴	First \$50,000 to spouse; balance split equally.	First \$50,000 to spouse; 1/3 of balance to spouse; 2/3 of balance to children.
NS ⁵	First \$50,000 to spouse; balance split equally.	First \$50,000 to spouse; 1/3 of balance to spouse; 2/3 of balance to children.
ON ⁶	First \$350,000 to spouse; balance split equally.	First \$350,000 to spouse; 1/3 of the balance to spouse; 2/3 of the balance to children.
PEI	Split equally.	1/3 to spouse; 2/3 to children.
QC	1/3 to spouse; 2/3 to child.	1/3 to spouse; 2/3 to children.
SK	First \$200,000 to spouse; balance split equally.	First \$200,000 to spouse; 1/3 balance to spouse, 2/3 balance to children.
YK	First \$75,000 to spouse; balance split equally.	First \$75,000 to spouse; 1/3 balance to spouse, 2/3 balance to children.

Probate fees throughout canada⁷

Province/ territory	Fee/tax
AB	<ul style="list-style-type: none"> \$35, where property's net value does not exceed \$10,000 \$135, where property's net value exceeds \$10,000 but not \$25,000 \$275, where property's net value exceeds \$25,000 but not \$125,000 \$400, where property's net value exceeds \$125,000 but not \$250,000 \$525, where property's net value exceeds \$250,000
BC ⁸	<ul style="list-style-type: none"> \$6 for every \$1,000 or portion thereof by which the estate's value exceeds \$25,000 up to \$50,000 \$14 for every \$1,000 or portion thereof by which estate's value exceeds \$50,000
MB ⁹	<ul style="list-style-type: none"> \$70 where property's value does not exceed \$10,000 \$7 for every additional \$1,000 or portion thereof by which value exceeds \$10,000
NB	<ul style="list-style-type: none"> \$25, where estate's value does not exceed \$5,000 \$50, where estate's value exceeds \$5,000 but not \$10,000 \$75, where estate's value exceeds \$10,000 but not \$15,000 \$100, where estate's value exceeds \$15,000 but not \$20,000 \$5 per \$1000 or portion thereof, where value exceeds \$20,000
NL	<ul style="list-style-type: none"> \$60, where estate's value does not exceed \$1,000 \$60 + \$0.60 for every additional \$100 of estate's value over \$1,000
NT	<ul style="list-style-type: none"> \$30, where property's value does not exceed \$10,000 \$110, where property's value exceeds \$10,000 but not \$25,000 \$215, where property's value exceeds \$25,000 but not \$125,000 \$325, where property's value exceeds \$125,000 but not \$250,000 \$435, where property's value exceeds \$250,000
NS	<ul style="list-style-type: none"> \$85.60, where estate's assets do not exceed \$10,000 \$215.20, where estate's assets exceed \$10,000 but not \$25,000 \$385.15, where estate's assets exceed \$25,000 but \$50,000 \$1,002.65, where estate's assets exceed \$50,000 but not \$100,000 \$1,002.65 + \$16.95 for every \$1,000 or portion thereof by which the estate's assets exceed \$100,000
NU	<ul style="list-style-type: none"> \$25, where property's value does not exceed \$10,000 \$100, where property's value exceeds \$10,000 but not \$25,000 \$200, where property's value exceeds \$25,000 but not \$125,000 \$300, where property's value exceeds \$125,000 but not \$250,000 \$400 where property's value exceeds \$250,000
ON	<ul style="list-style-type: none"> Nil, where estate's value is \$50,000 or less \$15 for every \$1,000 or portion thereof by which the estate's value exceeds \$50,000

Probate fees throughout canada⁷

Province/ territory	Fee/tax
PEI	<ul style="list-style-type: none"> \$50, where estate's value does not exceed \$10,000 \$100, where estate's value exceeds \$10,000 but not \$25,000 \$200, where estate's value exceeds \$25,000 but not \$50,000 \$400, where estate's value exceeds \$50,000 but not \$100,000 \$400 + \$4 per \$1,000 or portion thereof by which the estate's value exceeds \$100,000
QC	<ul style="list-style-type: none"> nominal fee¹⁰
SK	<ul style="list-style-type: none"> \$7 per \$1,000 of the estate's value or portion thereof
YK	<ul style="list-style-type: none"> nil, where estate's value is \$25,000 or less \$140, where estate's value exceeds \$25,000

¹When an individual dies without a will, they are said to have died "intestate". Each province has rules that define how estate assets are to be distributed in the case of intestacy.

²In QC, the rules apply to legally married couples and civil union couples, but does not apply to common law couples.

³Specific rules regarding household furnishings and a spouses ability to elect are unique in some provinces.

⁴Spouse may elect to receive house and contents in lieu.

⁵Spouse may elect to receive house in lieu.

⁶The preferential share for a spouse effective March 1, 2021, is \$350,000. A separated surviving spouse is not entitled to a share of the deceased's estate in an intestacy. A surviving spouse is considered to be separated if the couple were living apart due to a marriage breakdown at the time of the death for three years or more; had a valid separation agreement; had a court-ordered settlement agreement; or a family arbitration award had been made.

⁷Probate fees or Estate Administration Tax will apply in some provinces where executors require government confirmation of their authority to distribute estate assets. Where applicable, probate fees are normally calculated based on the value of the deceased's estate.

⁸There is an additional \$200 flat fee for estates exceeding \$25,000.

⁹Manitoba has eliminated probate fees as of November 6, 2020. Manitoba legislation still permits the court to charge a processing fee to probate applications. However, this fee has yet to be set and is expected to be nominal.

¹⁰This fee only applies where a will requires probate from the court because it was not notarized.

Deceased taxpayer - terminal tax return filing dates

The deceased's final return and any balance owing are due on or before the following dates:

Period when death occurred	Due date
January 1 to October 31	April 30 of the following year
November 1 to December 31	Six months after the date of death

If the deceased or the deceased's spouse or common-law partner was carrying on a business during the year when death occurred, the following due dates apply:

Period when death occurred	Due date
January 1 to October 31	June 15 of the following year, although any balance owing is due on April 30
November 1 to December 15	June 15 of the following year, although any balance owing is due six months after the date of death
December 16 to December 31	Six months after the date of death (including any balance owing)

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U.S. Federal estate taxes¹

The deceased's final return and any balance owing are due on or before the following dates:

	Estate tax imposed on ² :
U.S. persons (residing in Canada)	Fair market value of taxpayer's worldwide assets at death
Canadian Residents (who are not U.S. persons)	If the value of your U.S. situs property on death is greater than US\$60,000, and if the value of your worldwide estate is greater than US\$11.7 million, you may have exposure to U.S. estate tax
Threshold ³	2021
\$0	18%
\$10,000	20%
\$20,000	22%
\$40,000	24%
\$60,000	26%
\$80,000	28%
\$100,000	30%
\$150,000	32%
\$250,000	34%
\$500,000	37%
\$750,000	39%
\$1,000,000	40%
Exemption ⁴ (\$U.S.)	\$11,700,000
Unified credit ⁵ (\$U.S.)	\$4,625,800

¹All amounts referred to in this table and the notes are denominated in U.S. dollars.

²Note that there are various deductions and adjustments allowed in calculating the tax base for estate tax purposes.

³Rates are additive.

⁴Canadian residents (who are not U.S. persons) can reduce their estate tax liability by claiming a Unified credit equal to the greater of:

- U.S. \$13,000
- Unified credit (i.e. U.S. \$4,625,800 in 2021), pro-rated by the value of the individual's U.S. situs assets divided by his or her worldwide assets

⁵The Unified credit is equal to the amount of tax that would otherwise apply at the exemption level.

RRSP AND RRIF AT DEATH

In general, a taxpayer who dies with assets held in a RRSP or RRIF is required to include in their income the value of the registered plan at the time of their death. However, if the taxpayer designates a spouse or common-law partner as the direct beneficiary of the plan or through the will, the RRSP or RRIF can pass to the surviving spouse's RRSP or RRIF on a tax-deferred basis, provided certain requirements are met.

A tax-deferred transfer may also be possible for RRSPs or RRIFs that pass to a minor child or grandchild or a dependent child or grandchild living with a prolonged disability.

Summary of tax implications

Heir/beneficiary	Amount taxable at death
Spouse or common-law partner	Nil, if transferred to RRSP, RRIF or annuity, otherwise fair market value is taxable
Financially dependent child or grandchild who is mentally or physically infirm	Nil, if transferred to RRSP, RRIF, annuity or RDSP ⁶ , otherwise fair market value is taxable
Financially dependent child or grandchild who is not mentally or physically infirm	Nil, if transferred to annuity payable to age 18, otherwise fair market value is taxable
Other	Fair market value

⁶Subject to conditions.