

Your Estate Matters

10
SIMPLE
STEPS



Estate planning is about life – in the present and in the future. Most importantly, estate planning is about the life of your family and loved ones – and the peace of mind you get from helping to preserve their financial security.

By its very nature, estate planning is a difficult subject to discuss – even more so to plan for because it forces us to come to terms with our own mortality. Yet it's something you need to talk about openly with your loved ones today because you can't do so after you're gone – or after they're gone.

Each person will approach estate planning differently, with personal motivations and expectations. No estate plan will be exactly like another. Estate planning should be a reflection of your personal priorities and choices.

Estate planning is generally guided by three rational motivations

- 1 Provide adequately for family members and/or other loved ones
- 2 Ensure that your estate is distributed in the most timely manner possible after your death
- 3 Minimize taxes – during your lifetime and, equally important, for the beneficiaries of your estate

...and three emotional motivations

- 1 Gain comfort from knowing your loved ones are well looked after
- 2 Feel secure knowing that settling your affairs will not add more stress to those grieving for you
- 3 Rest assured that your estate will be distributed the way you wish

YOUR PAYOFF FOR READING ON

This booklet was produced to give you an outline of what you need to consider to make your estate plan complete. You will need advisors, including your financial advisor, lawyer and possibly a tax professional, to apply the most current tax, trust, estate and family laws of your province to your personal situation. The comprehensive estate planning steps and recommended reading list will help to expand your knowledge. Above all, we hope this booklet, combined with the expertise of your financial advisor, will give you the confidence to meet the challenges associated with handling estate matters.

WHY YOU NEED AN ESTATE PLAN

ESTATE PLANNING

- Keeps more of your money in the hands of your heirs
- Minimizes income tax and probate fees (no probate fees in Quebec); designates charitable gifts; declares your personal care preferences, including terminal medical treatment and organ donation intentions
- Provides for income splitting that has tax advantages
- Distributes your assets as you intended; provides funds to cover funeral expenses, as well as immediate and/or long-term family living costs
- Ensures business continuity for business owners
- Identifies the people chosen to carry out your last wishes and care for your minor children

ESTATE? WHAT ESTATE?

Too often, financial advisors and estate planning professionals hear, “I wish I’d known about this sooner” from distressed family members. Whatever your status – male, female, married, widowed, divorced, single, young, old, middle class or wealthy – everyone can benefit from estate planning. Unfortunately, too few people follow this advice.

A 1998 Decima Research survey, conducted for the Canadian Bar Association, revealed that only 49 per cent of respondents had engaged in some form of estate planning – 24 per cent on their own and 21 per cent with the help of a professional. The research also revealed that 47 per cent did not have a will at all.

The “do nothing” option is not in the best interests of your family, your business or other relationships. As the world we live in becomes increasingly characterized by legal action and government intervention, estate planning is something everyone should do.

CREATING YOUR ESTATE PLAN – STEP BY STEP

When many Canadians think of estate planning, they think only of a will. There's much more to consider. This step-by-step checklist will take you through the entire estate planning process. The rules covering the legal concepts outlined in this brochure may vary from province to province. After reviewing this booklet, talk to your financial advisor to help determine your next steps.

DESIGNATE A TEAM OF PROFESSIONALS

STEP

1

The complexity of your situation will determine the assistance you will require from professionals to create your estate plan. Your team may include a financial advisor, lawyer and tax planner. We recommend you make time to interview each practitioner thoroughly before retaining his/her services, as he/she will have access to some of the most intimate details of your life. The most logical place to start, therefore, is with a professional you've likely already established a trustworthy relationship with and who knows the intimate details of your personal goals – your financial advisor. Your financial advisor can recommend a lawyer and if necessary, a tax professional with whom he or she shares a working relationship.

Financial advisor's role

- 1 Help develop estate goals
- 2 Liaise with other practitioners on the team
- 3 Perform cost-benefit analysis
- 4 Provide strategies for you to maximize size of estate
- 5 Provide direction on various strategies and their implementation
- 6 Ensure timely planning and implementation of plan
- 7 Ensure competent management of assets
- 8 Provide support for you when creating your plan
- 9 Communicate with beneficiaries and help with administration (when needed and as appropriate)

Legal advisor's role (includes notaries in Quebec)

- 1 Review your estate goals
- 2 Draft legal documents: wills, powers of attorney, letters of wishes
- 3 Provide direction on various strategies and tactics
- 4 Draft, validate and interpret trusts
- 5 Represent the estate in litigation of wills and estate disputes
- 6 Mediate or arbitrate any estate disputes
- 7 Serve as trustee, executor or agent, if asked
- 8 Assist estate and trust administrators to interpret your wishes

Tax planner's role

Where your estate goals require the attention of a tax expert, he/she can help to:

- 1 Assess estate goals from a tax perspective and advise accordingly
- 2 Reduce the tax payable during your lifetime and at death
- 3 Advise on tax implications of various strategies and tactics



DRAW UP A HOUSEHOLD BALANCE SHEET

STEP

2

A household balance sheet is a summary of your financial situation that ultimately determines your overall net worth. Your net worth is the value of your assets (what you own) minus your liabilities (what you owe). If you don't already have one, work with your financial advisor to develop your household balance sheet.

A household balance sheet helps you:

- See how vulnerable you might be to shifts in your circumstances (i.e., should a death or disability occur)
- Guard against the effects of tragedy by letting you review income that will be available to support your family, including insurance proceeds from policies
- Understand how risk tolerant and comfortable you are with handling your debt
- Reflect on your lifestyle and consider what is important to you. This will help in long-term financial planning

CREATING YOUR ESTATE PLAN – WHERE TO BEGIN

The most logical place to start is with a professional you've likely already established a trustworthy relationship with and who knows the intimate details of your personal goals – your financial advisor. Your financial advisor can recommend a lawyer and if necessary, a tax professional with whom he or she shares a working relationship.

UNDERSTAND YOUR LIFE INSURANCE NEEDS

STEP

3

Life insurance is crucial to estate planning. It's important to work with your financial advisor or insurance expert to match your long-term financial objectives with your insurance needs. Proceeds from life insurance policies can be used to:

Replace income

Your family may lose your income if you die or become unable to work. The insurance money can be invested to produce income to replace some or all of the lost earnings.

Pay estate expenses

People often underestimate the cash required to meet a variety of expenses, including funeral expenses, income taxes, estate administration and probate fees, and other debts payable. The proceeds from an insurance policy can help to ease these burdens.

Leave an inheritance

If you don't own a lot of assets, this is one of the best ways to provide for your loved ones.

KEY QUESTION #1

With estate planning in mind, what types of insurance should be considered?

Here are the most common types of insurance:

- Whole life can work as an investment and provide a death benefit; it builds a cash value that's tax deferred. Premiums are usually higher compared to other types of insurance
- Term insurance has no cash value and is less expensive
- Universal life has a term insurance component and a tax-deferred savings or investment component

ANTHONY & LYNN'S STORY

Besides being a good businessman and savvy investor, Anthony is also a smart estate planner. Over his 60 years, he built an RRSP nest egg valued at \$750,000, a healthy provision for his wife and grown children. Anthony named his wife, Lynn, the beneficiary of his RRSP. On his death, taxable withdrawals can be made from the RRSP to support Lynn for the rest of her life. However, if they both died the RRSP would be fully taxable – to the maximum amount of \$375,000. As this is Anthony and Lynn's main asset, the tax due would take a serious bite out of their children's inheritance. As a precaution, Anthony purchased a life insurance policy to cover the tax bill, thereby guaranteeing the children would receive the full value of the RRSP.

KEY QUESTION #2

How much insurance do you need?

Ideally, you should try to balance affordability with your beneficiaries' anticipated needs. Examine your debts, income needs, occasional and regular expenses, and expected future expenses.

On your death, the proceeds from an insurance policy go to the designated beneficiary. If you have minor children, you may want the proceeds to be held in a trust created in your will.

If you are part of a closely held business where associates are shareholders, insurance proceeds allow the surviving associates to acquire your interests.

The help of your financial advisor or insurance agent, legal advisor or tax planner will help you clearly define your needs.

DRAW UP YOUR WILL

STEP

4

The purpose of a will is to:

- 1 Name the person (executor, estate trustee or liquidator) or institution that will administer your affairs on death
- 2 Administer and/or pass on assets that have not already been distributed prior to death
- 3 Name a guardian for any minor children (In Quebec, a guardian to minor children is called a "tutor." The right to appoint a tutor belongs to the last surviving parent.)
- 4 Express any limits on the use of your assets

A will is a crucial legal document signed in accordance with specific rules. If you die without one (die "intestate"), provincial legislation dictates who handles everything, who gets what, and who cares for your children.

THERE ARE THREE TYPES OF WILLS:

Formal will

- Prepared by a lawyer and signed by you in the presence of at least two witnesses
- Witnesses cannot be your beneficiaries or their spouses
- Typically drafted by lawyers to ensure your will is legally valid, meets your needs and does not create any future problems

Holograph will (Not accepted in some provinces)

- Written entirely in your own handwriting and signed by you
- No witness is necessary
- Not recommended as it may create unnecessary legal complications
- Your heirs may have trouble trying to interpret your expressed wishes and financial institutions may be reluctant to transfer assets in accordance with your wishes

Notarial will (In Quebec only)

- Made before a notary
- Signed by you, a witness and a notary
- Kept by notary in special register

Your will won't become effective or public until your death. Until then, you can change the terms or revoke it completely – as long as you are mentally competent. Your will should be reviewed at least once every three years to ensure it has not been affected by changes in legislation or your personal situation.

APPOINT AN EXECUTOR*

Selecting and appointing an executor may be one of the most important decisions you'll ever make. An executor is the person, named in your will, who is responsible for settling and managing your affairs after your death. He/she must follow the instructions in your will and is ultimately responsible to the beneficiaries.

This is more than an honour you are bestowing on a friend. You are selecting the person who will be best suited and capable to either handle all your affairs after you're gone or oversee their administration with the assistance of knowledgeable professionals. The appointment may be an imposition as the designate must:

- 1 Commit time to carry out all duties and responsibilities – may include taking time off from work or sacrificing other personal responsibilities
- 2 Deal with your family members, perhaps for a number of years if the estate assets are not immediately distributed

* In Quebec, this function is carried out by a liquidator. In Ontario, this function is carried out by an estate trustee.

Make sure you and your executor completely understand the responsibility you are entrusting in them.

Executor's duties

- 1 Prepares an inventory statement of assets and liabilities and oversees them (In Quebec, the assets owned by the deceased are known as the "succession." Other provinces refer to the assets of an individual as the "estate.")
- 2 Settles the liabilities of the estate, including all legitimate claims by creditors, funeral and other expenses
- 3 May submit the will for probate

- 4 May have to arrange the funeral
- 5 Completes life insurance claims and collects proceeds of policies in force if estate is beneficiary
- 6 Distributes assets and property to beneficiaries according to the instructions in the will
- 7 Invests, manages and distributes funds held in ongoing trusts
- 8 Files the final income tax returns and secures releases from Canada Customs and Revenue Agency (CCRA)

With these duties in mind, consider the following character traits when appointing your executor:

Integrity and good judgment

Will the person be able to act fairly in dealing with family members?

Willingness

Is he/she willing to take on the commitment?

Time, patience and organization skills

Will he/she be able to follow up on all of the details, either directly or with assistance from professionals?

Accessibility

Will the person be around to talk to family and advisors? Does he/she live nearby?

Familiarity

Can he/she deal with the family dynamics?

Legal and financial awareness

Will he/she understand where professionals may be needed for investment, tax and legal advice?

Many people often appoint more than one executor. Some people appoint a family member because of their understanding of family dynamics, and a professional to handle administrative and legal aspects of the estate settlement. Naming an alternate is also wise in the event your appointed executor(s) cannot serve. Some people prefer the services of a corporate executor (trust company or law firm).

Reasons for choosing a corporate executor include:

- You do not want to burden family members or friends
- You do not know anyone who has the expertise to be your executor
- You do not have immediate family members who live close by, or do not want to have them involved
- You anticipate potential family strife
- You anticipate struggles for control over certain assets or business interests
- Your appointed individual executor is unable or unwilling to undertake the task
- You want to make sure your wishes are carried out, if you and your spouse die in the same tragedy

APPOINT A GUARDIAN

A guardian (or “tutor” in Quebec) is the person who will become the legal custodian of your minor children should you die. Choose someone you trust, and who understands what you think is best for your kids. A guardianship remains in force until children reach the age of majority.

Parents should openly discuss their desires with the person or people they want to appoint to ensure the appointee(s) are willing to take on the responsibility. Remember that a good choice for a guardian when your children are younger may not be a wise choice when they are teenagers.

In Quebec, tutorship grants an individual parental authority over the minor personally, and the property of a minor, unless these duties are specifically divided.



Criteria for choosing a guardian or tutor

- Does the person share your child rearing values?
- Is the person, or family, someone your children would want to live with?
- Is that person willing to assume the responsibilities of guardianship?
- Does your will provide sufficient financial support for the children while they are in the guardian's care?
- Can that person afford to raise and support your children?

ESTABLISH POWER OF ATTORNEY FOR PROPERTY

STEP

5

At some point in the future you may be unable to make your own financial or medical decisions. But you can prearrange for someone to make these decisions according to your wishes by having a lawyer draft a separate power of attorney for property and personal care.

A power of attorney for property gives one or more people the authority to manage your financial affairs if you cannot do so – the person you appoint should be someone you would literally trust with your life (it could be the executor appointed in your will).

There are two types:

- General – covering all aspects of your financial affairs, or
- Limited – limiting the scope of powers given to your designate(s)

If prepared properly, a power of attorney for property will remain valid if you become mentally incapacitated.

NOTE: In Quebec, a power of attorney for property is called a “mandate given in anticipation of the mandator’s incapacity” or, more commonly, a “living will.”

All powers of attorney terminate on death, the appointment of a committee or guardian by a court order, or on the death of the person you have appointed as attorney. (In Quebec, this function is carried out by an administrator.) You can revoke a power of attorney at any time, as long as you are mentally competent.

In Quebec, a “mandate given in anticipation of incapacity” gives similar powers to the “mandatary” as outlined above for an “attorney.”

LAURA’S STORY

Rob and Laura were married for 15 years and had two healthy children. After Rob’s death, Laura was not particularly worried about her financial situation given that their house was fully paid for and there was a handsome investment portfolio in Rob’s name and an insurance policy that named his estate as beneficiary. Altogether, Rob’s investment assets totalled over \$450,000. Yet upon contacting her lawyer, Laura discovered Rob had never prepared a will.

Without a will, an application had to be made to the court to appoint an administrator. This triggered the payment of probate fees of \$6,000 plus administration fees of another \$5,000. Laura was entitled to inherit the first \$200,000 of Rob’s estate, with the remainder to be split among Laura and their children. (In Quebec, the spouse receives one-third of the estate; the remaining two-thirds is split among the children.) She also had to sell some of their investment portfolio to pay legal fees due to the probate process and to raise funds for the children’s legal shares of the estate. What’s more, the investments had appreciated significantly, leaving the estate with a large capital gains tax liability totalling thousands of dollars. The \$7,000 left in a joint savings account was wiped out by funeral and associated expenses.

Preparing a will and instituting some other simple estate planning measures such as naming Laura the beneficiary of the life insurance policy would have changed this situation. Laura could have saved probate fees, eliminated the need for administration fees, reduced legal costs, deferred capital gains payments and virtually eliminated any family fallout.

ESTABLISH POWER OF ATTORNEY FOR PERSONAL CARE

STEP

6

Medical and lifestyle decisions must often be made quickly when someone is seriously ill; hence, one or more family members are often granted this power of attorney to make decisions for you.

Power of attorney for personal care includes direction for your health care, nutrition, shelter, clothing, and safety issues, as well as your final wishes from a medical perspective. While not binding in all provinces, you should discuss your desires with your doctor and family so they know your preferences if you cannot communicate them yourself. A lawyer can help you prepare this and advise you of the limitations that may apply.

NOTE: British Columbia enacted the representation agreement act of February 28, 2000, which replaces enduring powers of attorney. A representation agreement will include both property and personal care.

MINIMIZE TAXES AND ADMINISTRATION FEES

STEP

7

Your estate may encounter certain obligations for income tax and probate taxes on your death, which may reduce the proceeds intended for the beneficiaries of your estate. If any part of your estate must go through probate to validate the will before transferring ownership of assets, the entire estate value may be subject to probate taxes.

Keep it in the family

To minimize income tax and probate taxes payable, there are ways to distribute assets to your heirs outside of your estate. The key is to reduce the value of your estate. The simplest way is to ensure you have designated beneficiaries for Registered Retirement Savings Plans (RRSPs), Registered Retirement Income Funds (RRIFs), annuities, life insurance policies and Guaranteed Investment Certificates (GICs) issued by insurance companies, whenever possible so that assets do not form part of your estate.

(In Quebec, you may designate a person as a beneficiary of an RRSP, RRIF or financial instrument [for example, GICs or segregated funds] other than by will only if it qualifies as an annuity or life insurance policy.)

Institutions may not be required by law to have executors file for probate to transfer the proceeds if there is a designated beneficiary named. Keep your beneficiary designations up to date since these assets are distributed according to the last beneficiary designation on record. If your spouse is your beneficiary, consider adding an alternate beneficiary to cover the possibility that your spouse does not survive you.

Here are some other options that may or may not apply to your circumstances:

Establish joint ownership with right of survivorship

In this case, property passes to the survivor by law rather than through the will. Since the jointly held asset does not form part of the first joint owner's estate, the need for probate on jointly held property and the payment of probate taxes are eliminated.

Under Quebec law, accounts may only be opened as "tenants in common." The right of survivorship is not legally recognized.

Leverage insurance

Some insurance products provide a straightforward alternative for minimizing probate taxes. GICs issued by insurance companies are actually annuities and are eligible to be paid directly to designated beneficiaries rather than passing through the estate. This eliminates the probate taxes that are payable on the GIC.

You may want to consider additional life insurance to cover administrative and tax liabilities. Cash from insurance policies may also generate sufficient liquidity to cover probate taxes, income tax liabilities and other debts payable at death.

Life insurance solutions, however, are contingent on the individual's age, health and insurability, as well as the ability to pay the annual premiums.

Prearrange your funeral

Anyone who has arranged funeral plans knows the stress, confusion, pain and potential for added costs that can result from last-minute preparations.

As well as reducing costs, preplanning funeral arrangements allows for family input, ensures your wishes are followed and relieves family members from having to make decisions at a difficult time.

Minimize taxes payable on the estate

Income tax can be the single greatest liability on the household balance sheet. In fact, where assets are not transferred to a surviving spouse, the received value of an estate is substantially less than anticipated due to taxes payable on the estate prior to distribution.

The two largest tax bills generally result from the deemed disposition of investments. In the case of an RRSP account, the balance is paid out and is taxed against the estate as income. For non-RRSP investments, taxes must be paid on all the unrealized capital gains of the investments. Often the greatest gains are realized on property other than an individual's principal residence (a family cottage, for example).

Establish a living family trust

By transferring assets to a living trust while alive, the assets are removed from the estate and therefore reduce the value of the estate subject to probate taxes. This also ensures that the testator maintains control over the assets transferred to the trust. There are revocable trusts (called Alter-Ego or Joint Partner) that are available to people who are 65 years of age or older.

The planning strategies referred to here may have adverse tax consequences and may not reflect your financial goals. Obtain financial and legal advice before proceeding.

KEEP TRACK OF ACCOUNTS AND IMPORTANT INFORMATION



One of the most difficult roles for an executor and family members is gathering the information required to settle the estate. Eliminate this concern by centralizing all household information from birth certificates, passports and other legal documents, to bank accounts and insurance policy numbers, to phone company and hydro account details. Once you have documented your important information, store a copy in a safe place and let someone close to you know where it is.

REVIEW AND UPDATE REGULARLY

STEP

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Review and, if necessary, update all information at least once a year. By updating your estate plan, you are getting a snapshot of where you are on an annual basis. This gives you the opportunity to trace your progress and, if need be, to revise your financial plan to get you where you want to go. This should include a review of your company's benefit statement for coverage and beneficiary designations for life insurance, RRSPs and pensions.

SHARE YOUR PLANS

STEP

10

It's really important to share your plans. There's nothing more disturbing than for someone to have to deal with incomplete information or requests. As difficult as it may be, make sure that all those affected by your plans know what is expected of them and where critical information is kept.



BRING YOUR ESTATE PLAN TO LIFE

Working closely with your financial advisor and a team of experts, you'll find the estate planning process to be liberating. It will provide you with the peace of mind that comes from knowing your loved ones will not be burdened by resolving your personal and financial affairs.

RECOMMENDED READING LIST:

- Foster, Sandra E. *You Can't Take It With You: The Common Sense Guide to Estate Planning for Canadians*. Third edition. Toronto: John Wiley & Sons, 1999.
- Gray, Douglas and Budd, John. *The Canadian Guide to Will and Estate Planning*. McGraw – Hill Ryerson Limited, 1999.
- Hayes, Dr. Christopher L. and Kate Kelly. *Money Makeovers*. New York: Doubleday, 1999.
- Ramsey, Dave. *Financial Peace*. New York: Viking Penguin, 1997.
- White, Jerry. *Death & Taxes*. Toronto: Warwick Publishing Inc., 2000.

AIM FUNDS MANAGEMENT INC. AND YOUR FINANCIAL FUTURE

Complete financial planning isn't just about choosing mutual funds and other investments. It should be about what you want out of life. Once that's clear, your financial advisor can help you match your investments to your needs.

We know that some of life's crises can't be avoided, but we believe that talking about money matters and taking control of one's finances can help eliminate the worry that can result when these matters are neglected.

AIM Funds Management Inc. is one of Canada's largest mutual fund companies with a broad range of products to reflect your evolving financial needs. We recognize that the investment decisions you'll make during your lifetime can be challenging. As a result, we are committed to working closely with financial advisors to help you reach your unique life goals. Part of that commitment involves producing materials such as this. We hope that you will find them useful.

EXPERTS CONSULTED

AIM would like to acknowledge the following individuals for their assistance in preparing this brochure:

- Robert D. Finlayson, partner, Smith Lyons, Barristers & Solicitors
- Sophie Martin, lawyer, Desjardins Ducharme Stein Monast, Barristers & Solicitors

MORE INFORMATION



Additional guides which you may find helpful are *Estate Planning: Sharing the information* and *Taking care of your children: Guardianship*. To obtain copies, please contact your financial advisor, call us at **1.800.874.6275** or visit www.aimfunds.ca

CHECKLIST

		To do	Pending	Completed	Notes
1	Designate a team of professionals				
2	Draw up a household balance sheet				
3	Understand your life insurance needs				
4	Draw up your will				
5	Establish power of attorney for property				
6	Establish power of attorney for personal care				
7	Minimize taxes and administration fees				
8	Keep track of accounts and important information				
9	Review and update regularly				
10	Share your plans				

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