

This article was written by Cowan Financial Solutions, and may be of interest to your employees.

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Why You Need a Will

Whether in the tabloids or our own lives, we've all heard about the nightmarish situations that arise when a Will is outdated, inaccurate or non-existent. Most people don't want that as their lasting legacy, so by taking the necessary steps to ensure your wealth – large or small – is left in the right hands you can be sure your loved ones will be cared for.

A Will is a legal document that specifies how you want your assets (i. e. property, money, personal effects) divided and distributed to loved ones in the event of your death. It also spells out how dependants should be provided for. If you don't have a Will, you're letting the laws in the province or the territory you live in – known as the Law of Intestacy – make those decisions for you. And if you hold the belief that your spouse will automatically inherit everything – think again.

When you don't have a Will...

- In Ontario, if you die and are survived by a spouse but no children or grandchildren, only then will your surviving spouse be entitled to your entire estate. But a common-law spouse must be named as a beneficiary in your Will to inherit any part of your property.
- In cases where a person is survived by a spouse and children, a "preferential share" of \$200,000 will be given to the spouse and the remainder of the estate gets divided equally amongst the children.
- If you have no immediate family members, your estate would be distributed to your parents, failing which it would be equally distributed amongst your siblings, a situation which you may not wish to occur.
- In the rare event that no heirs or next of kin can be identified, the estate will "escheat to the Crown," which means the government will be entitled to it all.

Having a Will drafted properly can also minimize taxes and probate fees, leaving more money for your family members. It also allows for customized trusts to be established for children under specified ages, which can be later than the age of majority. With a Will, you can leave specific direction concerning the administration of your estate, and the guardianship and custody of your children. Finally, it is essential to have a Will if you want to leave a part of your estate to a common-law spouse, a friend, or a charitable organization.

Who can help

Lawyer: To ensure your Will is legally sound, we recommend having a lawyer prepare your Will.

Financial Planner: Before talking to your lawyer, consult with your Financial Planner about how to structure your assets to achieve your objectives and minimize taxes, or how to fund desired bequests.

Accountant and others: If you own a business, the planning process will be more complex and will often require consultation with your accountant and other parties involved in the business. Your ability to dispose of your interest in the business may be restricted by agreements entered into with your partners or other shareholders.



Why You Need a Will (cont'd)

When to update your Will

Once your Will is in place, be sure to review it regularly (at least once per year) to be sure that no changes are necessary. Your Will needs to be updated in any of the following circumstances:

- A change in relationship occurs (i.e. divorce, marriage, separation)
- A beneficiary dies before you (unless you want those assets to be distributed according to your Will's Residual Clause)
- Any major assets, such as a car or property, are purchased or sold
- You or anyone else mentioned in the Will has a name change.
- You have children or your children reach the age of majority
- You move to a different province, state, or country
- Your relationship with anyone mentioned in the Will changes

Any changes in the relationships you have with your beneficiaries need to be reflected in your Will and, in some cases, may even automatically cancel your current Will. For example, **marriage causes a Will to be revoked** unless the Will was written in contemplation of marriage.

On the other hand, divorce **does not** cancel a Will; it only nullifies those sections pertaining to the former spouse. If you and your spouse are separated, however, you will need to make the necessary updates to your Will.

If you are not married but are in a long-term committed relationship, then you need to clearly specify in your Will which assets that individual will receive as well as how he or she should be supported after your death. This is especially important because unmarried partners are not necessarily entitled to the same rights as a legal spouse.

Changes in relationship may also affect your executor choice. An executor is the person(s) responsible for making sure your last wishes are carried out. In some cases, this might be your attorney. However, you do not need a legal professional. You could choose your spouse, your children, a close

friend, etc. The most important thing is that you select someone who you trust and who will be in your life for the long-term. For instance, if your spouse was to be your executor, and you divorce, then you would obviously need to select a new executor and write a new Will.

The bottom line is that any time there is a change of relationship you should really create a new Will so there are no complications or disputes when you are no longer around to explain your wishes.

No matter how large or small your wealth is, it's yours and you should decide where it goes, thus every adult who owns assets, is entitled to a life insurance benefit or a pension plan, or has a spouse or child should have a Will.

If you have any questions about this, please feel free to contact us at 519-651-6660.



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