



**MARKETING – Planned Giving CALL TO ACTION – FREE GIVEAWAY**

**USE with the WILL PLANNER as a companion piece to lead the prospect through the process  
Let your donors know that you have this document – Use as a vehicle to generate donor enquiries**

**Use this document and the Will Planner to respond to Will bequest enquiries**

**USE ON YOUR ORGANIZATION'S EXISTING LETTERHEAD**

## Will Planning Guide

Your Will is the foundation of your estate plan. It makes clear your wishes for distributing your property; it names an Executor to administer your estate and specifies a trustee for managing your assets on behalf of the people you name as beneficiaries of money, investments, or property.

### ***What is a Will?***

A Will is a written document, properly signed and witnessed, in which you detail how your assets are to be distributed after your death. It is such an important planning tool for the financial security of your loved ones, that everyone should have one. Age is not a factor – if you have assets – you should have a Will.

### ***Why Bother Writing a Will?***

Most Canadians spend their lifetimes acquiring personal property, paying off the mortgage, saving for their children's education, building financial security by contributing to an RRSP or pension plan and looking forward to retirement. However, like over half of Canadians, you might not have planned for the final distribution of those assets that took you your entire lifetime to build.

Preparing and completing an estate plan can help you maintain the money you worked so hard to save. You may think that you are too busy living your life to think about death. Your Will is not about death; it is about life - the lives and protection of your loved ones and the appropriate level of support for the charitable organizations that you helped during your lifetime. Some people put off making a Will because they're waiting for life to settle down. They look forward to a time free of unresolved family concerns, decisions, work problems and so on. Unfortunately, such a time rarely arrives. And then, your Will is never made. Without a Will, your best intentions and promises made in life may not be realized.

What you do today ***can make a difference*** to your own well-being, to the future of the people you care about, and to the charitable organizations that you support. The value of having an estate plan can be measured in peace of mind, as well as in dollars. Do the best job you can today, knowing that additions or revisions to your Will can be made in years to come.

**Did you know that over 50% of Canadians do not have a Will?**



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### ***Advantages of a Will***

- Protects your family's financial future
- Divides your estate according to your wishes, subject to some legal provincial limitations
- May minimize taxes due upon death
- Avoids higher administration costs
- Names guardians for your young children
- Can provide funeral and burial instructions
- Allows meaningful gifts to charitable organizations that you support
- It makes a statement on your values

### ***Without A Written Will***

Without a written Will, your savings, investments and other property will be disbursed according to a provincial law, an inflexible and impersonal procedure. If you die **intestate** that is without a Will, you will be allowing the province in which you lived decide the distribution of your estate for you.

- You will have no say in who benefits from your lifetime of effort.
- Nor will you have a choice of Executors/Trustees.
- Without a proper Will – a portion of your lifetime earnings could easily be depleted by taxes and unnecessary administration costs.
- The settlement process will likely be drawn out and your family may undergo financial hardship.
- You will not have the opportunity to express your choice of a guardian for your young children.
- And there can be no donations or gifts to your favourite charitable organizations.
- And if you have no spouse or next of kin, the province will take your estate into its own treasury.
- No matter how strong your feelings are about the people and charitable organizations you wish to benefit from your estate, your wishes cannot be fulfilled unless you state them in your Will.

A properly drafted Will is the *only* way to provide an orderly and timely plan for the settlement of your life.

### ***Death and Taxes – Two Certainties of Life***

There are no estate taxes or succession duties in Canada. However, ***taxes upon death have not disappeared***. For example, capital gains tax may be an issue for your estate. For Canada Revenue Agency (CRA) evaluation purposes, **all** your property - stocks, bonds, RRSPs, real estate, works of art - are said to have been **sold** at fair market value on the day of your death. Your assets may have grown in value, and these gains become taxable on your death. This also applies to your RRSP if you do not have a spouse to whom you can transfer it. ***Without an estate plan, you could lose nearly half of the value of the gains to the Canada Revenue Agency (CRA)***. While your Executor/Trustee may claim full personal exemptions on your final income tax return, your estate may end up paying taxes at the highest marginal tax rate.

Estate planning need not be expensive or complicated. Seek the professional advice of an expert to guide you on the financial and legal implications of drafting your Will. If you are considering a gift to an organization that you support, you may wish to discuss your options with an accountant or estate planner. This will help to ensure that you get the most favourable tax treatment possible.

### ***Review your Current Will***

If you already have a Will, you would be wise to consider updating it if any of the following statements are true:

1. It has been three years or more since I last reviewed my Will.



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2. My Will was drawn up when I lived in a different province or country.
3. There has been a birth in my immediate family.
4. There has been a death in my immediate family.
5. There has been a change in my marital status.
6. The beneficiaries named in my Will are no longer living.
7. I would like to add or subtract beneficiaries.
8. I am no longer happy with my choice of Executor/Trustee.
9. My appointed Executor/Trustee is in ill-health or has died.
10. There have been changes in my asset base.
11. My charitable giving plans have changed.

Of course, each of us is unique and everyone's circumstance is different, however here are a few of the special considerations that can affect your Will. They may or may not apply to you, however, you may wish to use this list as a guide, and the list might get you thinking about other considerations that may affect your estate.

- **If divorced or separated:** Do you want to provide for your former spouse? Are you responsible for dependants? Are assets you and your former spouse jointly owned? Are there specific obligations required by your divorce or separation agreement? If you already have a legal Will, is your former spouse still named?
- **If re-married:** Are there step-children you wish to include in your Will? If you already have a Will, is your former spouse still named?
- **If you are living common-law:** Is your relationship formalized through any legal agreement? Have you clarified how you wish your estate to be divided among family, friends and your common-law spouse?
- **If widowed:** Have your assets changed significantly? Do you have any rights in a trust created by your late spouse? Is there pension or death benefits from your spouse that would form part of your estate? If you already have a legal Will, is your deceased spouse still named?
- **If you have brothers, sisters or parents included in your Will:** If they pre-decease you, what do you wish to do with their bequests? Are there parents or other older adults for whom you wish to provide?
- **Change in children's status:** Are any of your children still minors, requiring legal guardians? Do any of the children have special needs? Do you have deceased children who left surviving children?
- **If you own a major interest in a business:** Do you need special arrangements for the management of the business after your death? Are there buy-out clauses?

Other special circumstances could relate to:

- out-of-the country property,
- dual citizenship,
- military service,
- an inheritance you might have received that has someone named to receive it after you die,



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- investments you share with someone else,
- special provisions in case you and your spouse both die within a short time period.

## ***How Do I Begin?***

### ***Step One: Prepare a list of your assets and liabilities:***

#### ***Assets***

- Real estate - land, house(s), cottage(s) and condominium(s).
- Personal effects - furnishings, clothing, antiques, jewellery, cars, etc.
- Other property - cash, bank accounts, securities, mutual funds, Canada Savings Bonds, GIC's, life insurance policies, joint annuities, etc.

#### ***Liabilities***

- Mortgages, loans, credit cards, lines of credit, etc

To determine the value of your estate, subtract your liabilities (what you owe) from your assets (what you own).

Not all of your property will pass under your Will. Life insurance, jointly held property, and survivor benefits of pension and other retirement plans will pass by contract or operation of law upon your death.

Review the title of jointly held property and update beneficiaries named in your insurance policies and retirement plans. Proper planning should take your whole estate into account.

### ***Step Two: List Your Beneficiaries***

Next, make a list of those you wish to remember in your Will. You will want to provide for your dependants first, but here is your chance to be creative. You can give a work of art to a favourite relative, honour a friend or arrange gifts to charitable organizations you believe in and support.



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### ***Step Three: Decide upon an Executor/Trustee and an Alternate Executor/Trustee***

One of a Will's important functions is to name an Executor/Trustee (personal representative) to settle your estate and carry out your Will's terms. Choose your Executor/Trustee with care. The role is quite complex, involving filing tax returns, investing assets and valuing and selling (or retaining) property. The job of estate settlement includes submitting the Will for probate (proof of validity), safeguarding and inventorying all estate assets, paying debts and taxes, and distributing the net estate as your Will directs. If your estate is sizeable, select an Executor/Trustee who is familiar with investments, business practices and sale of property. Or you might wish to name co-Executors, one a family member, the other a lawyer, bank or trust company.

#### ***Some helpful hints***

- Ideally, your Executor/Trustee should be younger than you,
- Name an alternate in case your Executor/Trustee cannot act or predeceases you,
- An Executor/Trustee, whether an independent professional or a family member, is entitled to reasonable compensation from the estate,
- Ask the person and ensure they understand the duties involved,
- If your Will leaves property in trust, you should designate a trustee as well. Because trusteeship can be a relatively long-term job, banks or trust companies are often chosen to fill this position.

### ***Step Four: Writing your Will***

If your estate is straightforward, your Will should be simple and may involve only a modest expense. There are several ways in which you can write a Will. *NOTE:* This is not a guide to writing a Will. That is a task you should give to an expert who is familiar with laws and procedures in the province you reside.

#### **1. Write your own Will**

A Will prepared in your own hand is called a holograph Will. Not all provinces recognize them as valid, and requirements, such as witnesses, may differ from province to province. Questions may arise as to your real intent and your estate could be tied up in court for many months. Your Will is too important to attempt without professional assistance. Don't try to draft your own Will and don't copy someone else's. Errors in the wording or omitting clauses in even the simplest Will could have expensive consequences for your heirs.

#### **2. Your Lawyer Drafts your Will**

For an appropriate fee, your lawyer will draft your Will in precise language so there will be no doubt of your intentions. Laws that govern matrimonial property and dependent relief legislation affect your Will. The use of a lawyer will give you the assurance that your Will is valid and all legal requirements have been met.



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### **3. A Trust Company Drafts your Will**

Most trust companies can help you prepare your Will. If you are already banking at a trust company, using the same company to help plan your Will and administer your estate may be very convenient.

### **Kinds of Bequests**

A carefully prepared Will can help make sure all reasonable provisions have been made for your dependants. Your Will can be a convenient way to make a charitable gift to an organization you have supported all your life. A carefully drafted Will can also help minimize taxes at the time of death.

Bequests can be a form of cash, real estate, securities, tangible personal property or other assets. Here are some types of bequests:

**Specific bequest:** Your beneficiaries (family, friends, and charitable organizations) would receive a specific dollar amount from your estate, or a stated fraction. The advantage of making a specific gift is that it can be precisely identified and is simple to administer.

**Residuary bequest:** Your beneficiaries (family, friends, and charitable organizations) would receive a percentage of all of the remainder of your estate after all other specific bequests have been paid out. The advantage of making a residuary bequest is that your estate is divided in percentages and is not dependent upon a specific dollar value. So if your assets increase or decrease you do not have to revise your Will.

**Contingent bequest:** Your beneficiaries (family, friends, and charitable organizations) would receive a share or all of your estate only in the event that other stated beneficiaries have died.

**Memorial bequest:** Your bequests to charitable organizations can be named after you or someone you wish to memorialize.

### **What's in a Name?**

Accuracy in naming the individuals and charitable organizations to which you wish to leave money or property is most important when you make your Will. Your Will should leave no room for doubt. Identify each beneficiary clearly and precisely. Use care, various charitable organizations may have almost identical names. Charitable organizations will gladly supply you and your advisor(s) with all necessary information.





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***Step Five: Signing and Witnessing of your Will***

Signing and witnessing is critical to the validity of your Will and requirements differ from province to province.  
***Don't do it on your own.***

**Witnesses**

- You and your two witnesses sign the document in each other's presence.
- Neither beneficiaries nor their spouses should be witnesses.
- As one or both witnesses may be called upon to give evidence as to the execution of your Will, they should be residents of Canada. It is recommended that your witnesses be younger in age than you.
- In addition, a document required for the "probate" of the Will (called an affidavit of execution) should be signed and sworn by one of the witnesses, shortly after the Will is signed.

***Step Six: A Regular Review***

Once you have drafted your Will, don't allow it to become outdated. A Will drafted a few years ago reflects your thinking and lifestyle at that time. Consider what may have changed:

- Tax laws - your Will should reflect the latest tax saving strategies.
- Family circumstances - a birth, a death, or a move to a new province may indicate the need for a revision to your Will. Marriage necessitates a new Will.
- Your investments - your stocks have increased (or decreased) in value. You have purchased property, acquired a work of art or started a small business.
- Your wishes - you may now want to add a new beneficiary, change your Executor/Trustee, or increase your support to charitable organizations.

***Frequently Asked Questions***

***What is Probate?***

"Probate" is the recognition by the provincial court of the validity of your Will and the appointment of the person named as Executor/Trustee. Granting of the "letters probate" is notice to the public that the Will complies with the basic formal requirements and that the Will was not being challenged at the time of probate application. There have been recent increases in provincial probate fees. Estate planners can assist you in avoiding or deferring probate fees.



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### ***Should I Keep my Will in my Safety Deposit Box?***

That's a common solution. However, in some provinces safety deposit boxes are sealed at death, pending certain tax formalities, and the Will is not immediately available. If you leave your Will in your safety deposit box, it would be wise to arrange for your Executor/Trustee to have access to your box. Otherwise, upon your death, there may be delays in gaining access. The best solution, usually, is to leave a copy of the signed Will with your Executor/Trustee, your lawyer, or with the bank or trust company named as Executor/Trustee.

### ***Where should I Store My Will?***

Many Wills have been lost, leaving family and friends with the same anxiety and financial burdens as if there were no Will at all.

- Tell your Executor/Trustee and family where the original Will is kept.
- Keep an unsigned copy at home for reference.
- File the original with your lawyer or trust company.

### ***What important documents will my Executor/Trustee Require?***

Keep the following documents along with the contact information in a place where they can be easily located – in a binder for example. The information will help in making funeral arrangements and in estate administration.

1. birth certificate
2. social insurance number
3. insurance papers and policies
4. group insurance number
5. bank account numbers
6. investment account numbers
7. pension benefits
8. duplicate tax returns
9. credit cards
10. utility account numbers
11. burial plot information
12. funeral pre-arrangements

**Seek Expert Advice:** (Insert Your Organization's Name HERE) strongly recommends that you consult your lawyer or estate planner regarding specific information and wording of any **Charitable Will Bequest**. The information provided here is general in nature, does not constitute legal or financial advice, and should not be relied upon as a substitute for professional advice. Thank you for your interest in supporting (Insert Your Organization's Name HERE).

For more information on our planned giving program or to request sample **Charitable Will Bequest clauses to ensure that we can accept your gift as you intend**, please call us at (Insert Your Organization's Telephone Number HERE).