

# Solutions

FOR FINANCIAL PLANNING



## FINANCIAL JOURNEY

Navigating the twists  
and turns of life.

SPRING 2020

## Forward thinking

**Estate planning essentials to ensure your wishes are carried out as intended.**

You know you should do it, but it's a tough reality to face. Estate planning is a process that many people put off, and you're certainly not alone if you have yet to begin.

Just over half of Canadians (51 per cent) do not have a will, and a further 15 per cent have a will that is not up to date.<sup>[1]</sup> Those are surprising numbers when you consider just how much is at stake. When someone dies without a will, they get no say in who receives their assets. Guardians for minor children are chosen by the courts. And in the worst instances, families can be torn apart over inheritance disagreements.

These are not pleasant situations, yet they happen more often than you might think. The good news is, creating a plan ahead of time can ensure your assets are passed on as you wish, your family is cared for and the stress over handling your affairs is reduced during an already difficult time.

## The elements of a simple estate plan include:

- **Will** – tells the executor (liquidator in Quebec) who should receive assets; may also name guardians for children and establish a trust to hold assets for them<sup>[2]</sup>
- **Power of attorney for property** – appoints someone to make financial decisions on your behalf if you are living but incapacitated
- **Power of attorney for personal care** – appoints someone to make health care decisions on your behalf if you are living but incapacitated
- **Beneficiary designations** – naming beneficiaries directly, particularly on life insurance policies, registered plans and non-registered segregated fund contracts, can simplify and speed up the distribution of assets

The very process of developing an estate plan also often reveals opportunities to implement strategies that can maximize the amounts beneficiaries receive by reducing taxes and/or probate fees. To illustrate this, let's explore four scenarios focused on people of different ages with different priorities – none of whom currently have an estate plan.<sup>[3]</sup>

## What are probate fees?

When the executor of an estate applies for a will to be probated (approved by the courts), the courts assess fees based on the value of the estate. Probate fees<sup>[4]</sup> vary across Canada – in

some provinces (such as Alberta) they are relatively low, but in other provinces (such as Ontario, British Columbia and Nova Scotia) they can amount to thousands of dollars. Certain assets, such as segregated fund contracts and life insurance policies when there is a named beneficiary, are paid directly to that beneficiary without passing through the estate, so they are not included in the calculation of probate fees.

## Meet Sana and Graham

- Married couple, age 30 and 35
- Three children, age 7, 5 and 3
- \$20,000 in Sana's TFSA and \$12,000 in Graham's TFSA
- \$10,000 in a family RESP with Sana and Graham as joint subscribers
- \$15,000 in a non-registered account

### Items to address:

- Name guardian for children in will – someone trusted who shares their parenting style
- Arrange for assets to be managed on behalf of children – for example, in a trust by a trustee
- Consider naming a successor subscriber for the RESP to take over management of the account if both Sana and Graham die
- Consider life insurance for Sana and Graham to protect the family's standard of living and help pay for the children's care and education

At first glance, Sana and Graham have few assets and may not think it's necessary to create an estate plan just yet – but with three children who are not allowed to manage their own assets until they reach age 18, it's essential they put strategies in place now. In addition, partly because they have few assets to fall back on, insurance makes sense to provide tax-free money the family can use if either Sana or Graham unexpectedly pass away. Life insurance also offers the option to pay out the proceeds to an insurance trust to provide for minor children. With an insurance trust, it's possible to control what children receive when and, because the money does not pass through the estate, it avoids probate fees and creditor claims.

## Meet Irina

- Never married, age 50
- No children

- \$1.3 million home with \$300,000 mortgage
- \$700,000 in an RRSP
- \$60,000 in a TFSA
- \$250,000 in a non-registered account

**Items to address:**

- Decide who should inherit assets – perhaps a mix of family members and charities – and create a will
- Establish a power of attorney for property and for personal care
- Consider life insurance to cover the taxes due on the estate, which will be substantial without the option of a tax-free rollover to a spouse
- Consider life insurance to fund a charitable gift, with tax-deductible premiums and the opportunity for a donation that doesn't flow through the taxable estate first

Irina needs to think of people she can trust to be an executor and power of attorney and take the time to write the three basic estate planning documents (will, power of attorney for property and power of attorney for personal care). She may have relatives or friends to whom she would like to leave her significant assets – but, if she doesn't, she can make a very meaningful charitable gift. In that case, life insurance is one of the most effective ways to achieve this, because it has the potential to deliver the certainty of a large, tax-free lump sum that will make a big difference to the causes she supports.

## Meet Mateo

- Widower, age 60
- Two children, age 25 (with a disability) and 23 (not responsible with money)
- \$900,000 home with no mortgage
- \$700,000 in an RRSP
- \$50,000 in a non-registered account
- \$250,000 life insurance policy

**Items to address:**

- Set up a Registered Disability Savings Plan (RDSP) to accumulate savings for the 25-year-old child; the child may be eligible for RDSP grants and bonds from the government as well

- Plan carefully for the transfer of the home and financial assets, keeping in mind that an RRSP can roll over tax-free to a dependent disabled child
- Consider establishing an absolute discretionary trust (known as a Henson trust) to avoid the direct transfer of assets to the 25-year-old and protect provincial disability benefits he may be receiving
- Consider adding an annuity settlement option to the life insurance policy; cheaper than a trust, this allows money to be paid out to the 23-year-old as a stream of income instead of a lump sum

Mateo has significant opportunities to help his children through appropriate estate planning. With the right structures in place, the 25-year-old with a disability can continue to enjoy valuable provincial benefits and access programs and services that significantly improve his quality of life. Meanwhile, the 23-year-old can receive smaller payments over time rather than an overwhelming lump sum, reducing the risk that she will spend all of her inheritance unwisely.

## Meet Wei

- Married, age 71
- Two children from previous marriage, age 36 and 34
- \$750,000 home with no mortgage, jointly owned with husband
- \$500,000 in a RRIF
- \$50,000 in a non-registered account

### Planning opportunities:

- Consider investing RRIF assets in a segregated fund contract with Wei as the owner and annuitant, her husband as the successor annuitant, and her children as irrevocable beneficiaries
- Note that a testamentary spousal trust set up in Wei's will can accomplish similar goals, but may be a significantly more costly solution
- Consider life insurance to pay the tax liability on the RRIF when it transfers to the children

Blended families need to build estate plans with care to avoid unintentionally disinheriting anyone. In this case, Wei wants to provide income to her husband during his lifetime, but give what's left at the time of his death to her children. By investing her RRIF assets in a segregated

fund contract, as described above, Wei can allow the RRIF to transfer to her husband on a tax-deferred basis, but at the same time ensure that her children will have a say in the management of the assets that will ultimately pass to them. Specifically, her husband will need the consent of the irrevocable beneficiaries to increase his income stream from the RRIF or to cash out the entire RRIF.

## Speak with your advisor

Whether or not you see your own situation reflected in these examples, if you don't yet have a comprehensive estate plan in place, speak with your advisor. Request referrals to legal and accounting professionals, as required. Also ask about strategies that are appropriate for your specific circumstances and that may help you save taxes, avoid probate fees, speed up the delivery of bequests and protect vulnerable beneficiaries. Finally, be sure to revisit your plan regularly to ensure it remains up to date and continues to reflect your wishes.



**DON'T FORGET DIGITAL ASSETS**

Digital assets deserve estate planning attention, too. It's important to grant a trusted person the power to access and handle your hardware, data (including music, photos, videos and e-books), email, websites and social media accounts. Digital currency such as PayPal and Bitcoin, as well as gift cards, loyalty points, cash-back rewards and even video games can have significant monetary value. And then there are business-related digital assets, including data, patents and other intellectual property.

The first step to getting your digital estate in order is to take inventory. List all your digital assets and how to access them: the physical location or website associated with them, any account numbers or usernames, and your passwords. Next, figure out what you want done with your digital assets – what accounts should be disabled and what assets should be passed on to loved ones or business partners – and include your instructions in your will.

Note that passwords should not be included as part of your will because, if probated, they become public; make sure, however, that you store passwords in a secure place that your executor can ultimately access, such as a lock box or safety deposit box, or with your lawyer.

*If you own a cottage, special attention should be paid to how it is handled in your estate plan. To learn more, check out the article [“Keeping the cottage in the family”](#).*

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[1] <http://angusreid.org/will-and-testament>

[2] In all provinces except Quebec, guardian appointments in a will are temporary. Guardians must apply to the courts to make these appointments permanent.

[3] Each example is fictional and for illustrative purposes only.

[4] Probate does not apply in Quebec.

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