

PERSPECTIVES

An excerpt from "Perspectives" - Volume 9 - Issue 4

Financial Planning

Why you need a Will

By Sylvia Ellis, Senior Estate Planning Advisor

I'm sure you've seen many articles on the need to have a Will. You may already have your Will in place and up to date! But you'd be surprised at how many people don't. In fact, a CIBC survey conducted in 2015 estimates that almost half of Canadians don't have a valid Will.

If you're one of them, consider asking yourself why. Maybe you're thinking, "I'm too young, so it's not that important right now." Or maybe, "I'm too busy." Or, "It costs too much." You could also be assuming that, if you die without a Will, your assets will simply pass to your spouse or other beneficiaries. But what if, for example, you have children, perhaps from another marriage – or if you have in mind certain intentions for your money?

If you die without a Will, you are considered to have done so *intestate*. This means the provincial government – not you – decides how your assets will be divided.

Each province has rules that define your estate's beneficiaries and how much each is entitled to. Generally, the rules run along family lines. But they can often result in unintended inclusion or exclusion of beneficiaries. And *that* can lead to substantial financial costs you could have avoided.

Some reasons to be proactive about drafting your Will include:

- If you have minor children, you lose your say in how they may be cared for. Portions of your estate are usually paid into court and administered by the surviving parent or a court-appointed guardian. An issue here is that, at age 18 (this varies province to province), a child could take charge of their full entitlement.
- B.C.'s new *Wills, Estates and Succession Act* rules came into effect March 31, 2014. If you die intestate, your spouse will merely have the right to purchase the home you lived in from the estate within six months of the grant of probate. Also, the child and parent entitlements will vary depending on the connection to the marriage.
- One way to defer income taxes on death is to leave property that has appreciated to your spouse. With no Will, a portion of your estate may be left to your children or others, resulting in a higher tax liability to the estate.
- If you have charitable aspirations, one way of reducing your estate taxes is by making gifts in your Will. This wouldn't happen without a Will.

- In your Will, you can establish a *testamentary trust*, which has its own benefits. It is worth noting that the federal government eliminated the tax benefits of testamentary trusts, but in certain circumstances, they remain an effective planning tool in your Will.

Will planning is one area where we strongly recommend you seek assistance from a specialized legal advisor. Making a Will is more than just signing a document. It involves reviewing your potential estate, and planning to minimize the cost of probating and administering it. The few hours you spend with a legal advisor planning your estate could save your spouse, children and other beneficiaries much time, effort and money. ■



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