

ESTATE & TRUST

AGENT FOR ATTORNEY UNDER A POWER OF ATTORNEY¹

As an attorney under a power of attorney for property, you may be asked to manage someone's financial affairs. This happens if the person is unable to manage on their own due to illness or other reasons. It is a major responsibility that requires commitment of time and energy over many years.

As an attorney, your responsibilities could include:

- Reviewing all existing financial records and the last will and testament to fully understand the person's unique financial situation
- Working closely with the individual's advisors, caregivers, family, and attorney for personal care to coordinate decision-making
- Upholding the individual's wishes
- Maintaining or selling real estate
- Administering bill payments, managing investments, filing income tax returns and adhering to a prudent budget
- Documenting and reporting all transactions made on the person's behalf, to ensure transparency
- Preparing formal accounting records to be presented in court at the request of provincial agencies

You have a fiduciary obligation to act in the person's best interests at all times, and especially if his or her interests conflict with your own.

When asked to act as an attorney under a power of attorney for property, many people are concerned that they do not have the time or the expertise to carry out their responsibilities. They may live far away from the person they are representing. They may also be worried about pressure from relatives, challenging family dynamics or complex assets such as ongoing companies or trusts that involve the person they are representing.

Let CIBC Trust help

If you are acting as an attorney under a power of attorney for property, consider engaging our CIBC Trust team to act as your agent. We complete many of the day-to-day tasks on your behalf and help you make objective and educated choices. You remain in control of key decisions knowing that our team of experienced professionals is managing everything in the best way possible.

The CIBC Trust team understands that every situation is unique and should be managed with discretion and sensitivity. We have legal, tax, investment, property management and administrative expertise. Also, with access to an extensive network of CIBC specialists we can manage any situation.

The table on the reverse lists just a few of the duties of an attorney for property and the challenges you may face. It also highlights how CIBC Trust can help.

Your Duties as attorney (under a POA for property)

Challenges you may face

How CIBC Trust can help

Immediate

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| <ul style="list-style-type: none"> ▪ Find and review POA ▪ Consult with family and/or personal care attorney ▪ Assess the immediate financial needs of the grantor or incapable person | <ul style="list-style-type: none"> ▪ Overwhelming emotions ▪ Lacking time or expertise for administrative tasks ▪ Understanding provincial legislation ▪ Maintaining impartiality with family members/personal care attorney ▪ Residing out of town, province, or country | <ul style="list-style-type: none"> ▪ Relieve you of administrative burdens ▪ Provide personal attention and regular updates ▪ Act as an impartial third party ▪ Provide services across Canada |
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Protection of assets

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| <ul style="list-style-type: none"> ▪ Identify and record assets ▪ Ensure safe custody of valuables ▪ Secure real estate, arrange for property management and suitable insurance coverage ▪ Assess investment risk | <ul style="list-style-type: none"> ▪ Securing and overseeing multiple properties, rental or commercial holdings ▪ Ensuring security and protection of special collections ▪ Managing complex investments | <ul style="list-style-type: none"> ▪ Assist with arranging adequate and current insurance coverage ▪ Manage assets and monitor/arrange to sell properties as appropriate ▪ Monitor financial markets, advise on investment allocation ▪ Arrange storage of valuables ▪ Provide guidance regarding complex investments |
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Assembling and valuation of assets

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| <ul style="list-style-type: none"> ▪ Receive proper valuation of all assets (investments, real estate, vehicles, jewelry, art) ▪ Consolidate assets under one account to provide appropriate accounting ▪ Redirect all pensions or benefits | <ul style="list-style-type: none"> ▪ Finding qualified professionals to value assets ▪ Locating assets in other provinces or countries ▪ Lacking sufficient business experience ▪ Finding an appropriate account to consolidate assets and provide required accounting | <ul style="list-style-type: none"> ▪ Arrange for professional appraisal of assets, including those out of province or country ▪ Arrange for valuation of private company holdings ▪ Arrange to open an account to consolidate assets and provide appropriate reporting |
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Court applications

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| <ul style="list-style-type: none"> ▪ Prepare and present accounting records to the courts, as required | <ul style="list-style-type: none"> ▪ Lacking knowledge as to how to initiate process and how to prepare, reconcile and distribute ▪ Experiencing issues engaging third parties regarding accounts or having the appropriate legal representation | <ul style="list-style-type: none"> ▪ Have access to third-party preparation of court accounts ▪ Provide guidance for the application of the accounts ▪ Work with the account solicitor to present accounts at court ▪ Have experience in the process and arrange payment of costs awarded by the court |
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Liabilities

- Identify all potential debts and bill payments of the incapable person and determine all ongoing costs
 - Make payments of all debts on behalf of the grantor or incapable person, in accordance with the management plan if any, or in a discretionary manner
 - Provide an ongoing report of financial needs and requirements of the client and manage assets accordingly
 - Keep appropriate parties informed of all client accounting and asset management
 - Establishing, substantiating, and settling claims
 - Managing potential for conflict of interest
 - Lacking the time consuming to pay debts and/or monthly bill payments on an ongoing basis and provide adequate accounting records
 - Lacking the expertise to challenge costs or find solutions to cover expenses
 - Lacking liquid assets available to pay bills
 - Lacking experience with budgeting
 - Act as an impartial third party when reviewing claims
 - Arrange to pay, settle, or dispute all liabilities
 - Arrange for ongoing payment of debts and/or monthly bill payments
 - Provide sound decisions in regard to any discretionary matters
 - Provide ongoing accounting to appropriate parties
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Managing the assets

- Consolidate accounts where possible and close safety deposit boxes
 - Manage or sell real estate holdings
 - Manage investments
 - Claim any disability or other possible insurance claims
 - Lacking time for administrative duties
 - Lacking experience in managing investments
 - Managing potential conflict among family members and/or personal care provider/s
 - Collect all grantor's assets
 - Provide discretionary investment management or oversight for assets, and provide guidance regarding provincial legislation
 - Arrange for the disposition or securing of real estate, household items, and personal effects
 - Provide insight as an independent third party when working with family and or personal care attorney
 - Maintain records of all assets, liabilities, income and payments throughout the administration
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Tax matters

- Review past tax returns to determine capital gains and income sources
 - Determine tax implications
 - Prepare and file required income tax returns annually
 - Prepare elections as needed for tax planning purposes
 - Lacking experience with tax matters
 - Dealing with outstanding tax returns from previous years
 - Minimize taxes by filing appropriate returns and elections
 - Provide access to CIBC Trust tax specialists who focus on the preparation of tax returns
 - Review and provide guidance on the Canada Revenue Agency's Notice of Assessment
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To learn more about CIBC Trust Services, please contact your CIBC advisor.

¹ Power of Attorney is also known as Mandate and the Attorney as Mandatary, in the province of Québec. Court appointed Guardians have many of the same responsibilities as attorneys, and can also obtain assistance from CIBC Trust. This article is provided as an information service only, and the information is subject to change without notice. The information is believed to be accurate at the time of writing, but CIBC does not represent or guarantee accuracy, completeness or suitability. The opinions expressed herein do not necessarily represent the views of CIBC. Please consult your own professional advisors for further advice concerning your particular situation. CIBC Private Wealth consists of services provided by CIBC and certain of its subsidiaries, including CIBC Trust Corporation. The CIBC Logo and "CIBC Private Wealth" are registered trademarks of CIBC, used under license.