CHARTERED PROFESSIONAL ACCOUNTANTS CANADA

A Guide to Financial Decisions

PLANNING FOR THE END OF LIFE

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A Guide to Financial Decisions

Implementing an End of Life Plan

The material contained in this booklet is designed to introduce some fundamental topics related to managing the period leading up to the end of life. It is important to plan ahead because families often struggle with financial matters during an extended illness. Doing so ensures family members can address issues quickly and efficiently. This booklet provides the necessary background when working with a competent advisor, and explains many of the most important questions you should ask. It provides easy-to-understand definitions of key terms and information for persons facing extended illness, and for the families of those who are ill or recently deceased. There is also a helpful list of resources which includes Website addresses for accessing information on the Internet and a glossary of important terms. After you read this *Guide*, the best advice we can offer is to consult with a competent advisor, such as a Chartered Professional Accountant or lawyer, where applicable, for assistance in addressing these challenging financial issues.

Disclaimer: This *Guide* is intended as a basic resource guide for end-of-life issues. This *Guide* should not be construed as providing financial or legal advice and it is not intended to replace the advice and the expertise of a qualified professional in the accounting, legal, or financial planning professions. Working with a qualified professional is strongly recommended. The points covered herein are merely introductory, and therefore the content of this *Guide* should not be presumed to be exhaustive. Applicable tax rules, laws and regulations change frequently and may have changed since the preparation of this *Guide*. The material in this *Guide* should be verified against the specific laws within your province or territory.

Acknowledgments

Chartered Professional Accountants of Canada (CPA Canada) wishes to acknowledge the contributions and assistance of many organizations in the completion of this resource *Guide*. This book is the result of a vision brought to the American Institute of Certified Public Accountants (AICPA) by Hospice of Michigan and the Michigan Association of Certified Public Accountants and adapted by CPA Canada for Canadian purposes.

The Michigan Association of Certified Public Accountants (MACPA)

Recognizing there was no resource available to those in the end of life, the MACPA formed a task force specifically to address this issue and develop the resource guide *Financial Affairs: At the End of Life*. In partnership with Hospice of Michigan, MACPA members spent hours discussing, diagramming and creating this product to ensure its success with patients and the community at large. Their unwavering support and generous donation of time and talent have been valuable gifts.

Hospice of Michigan

We appreciate the staff of Hospice of Michigan and their work with patients and their families at an extremely difficult and vulnerable time. Every day they see the consequences of financial turmoil on persons with life-limiting illness, and the suffering of families that lasts far beyond the death of their loved one when financial planning was neglected. The staff's desire to provide patients with practical financial information and their commitment in reviewing and contributing to the *Guide* reflects their dedication to their profession and patients.

The American Institute of Certified Public Accountants' Personal Financial Planning Executive Committee

The volunteer members of this committee continue to provide leadership and guidance on financial planning initiatives. Their support and input for this *Guide* have been instrumental in its completion and distribution.

The Prime Plus/Elder Care Task Force

The former joint task force of the Canadian Institute of Chartered Accountants (now Chartered Professional Accountants of Canada (CPA Canada) and the American Institute of Certified Public Accountants (AICPA) provided both content and reviews for the *Guide*. We appreciate their support and passion for meeting the needs of a maturing population.

Portions of this *Guide* contain material reprinted with permission from The American Institute of Certified Public Accountants and Michigan Hospice Association.

The Canadian Primeplus Task Force

David Braumberger, CPA, CA, Michael Epp, CPA, CA, William Hyde, CPA, CA and Kelly Lohn, CPA,CA provided the Canadian content for the *Guide*. Their dedication to this project has been crucial to the completion of the *Guide* for Canadian users.

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Introduction

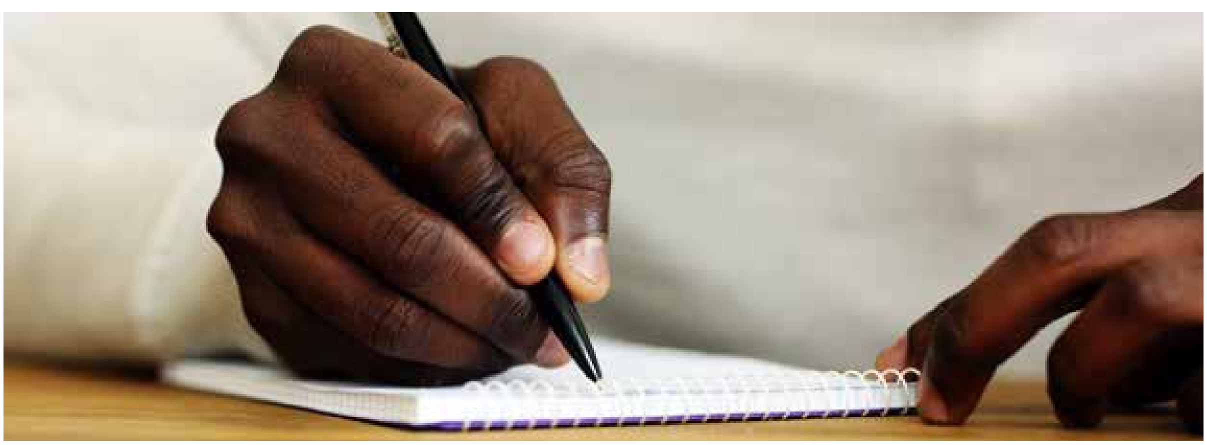
Throughout your life, you have likely set goals for yourself both financially and personally. Chances are, the goals that have been most successfully fulfilled are the ones you planned for. Planning helps to focus on what's important to you, identifies the steps that need to be accomplished to get there, provides a framework for keeping you on track and gives you the opportunity to make adjustments when needed. Planning for one's end of life can be uncomfortable and it is easy to deny the inevitable by just not thinking or talking about it. However, like most things in life, if you don't plan for it, there will be no plan. This *Guide* has been developed to help you think about your end of life plan and how that plan can help with your own peace of mind and quality of life. This *Guide* also helps you consider your family members and how you can make the transition of your passing easier for them. After reading this *Guide* and reflecting on the topics that are discussed here, contact your Chartered Professional Accountant who can help you develop a plan that is created especially for you and your family.

CHAPTER 1
Planning for Yourself

To help you in your planning, it is a good idea to seek the help of a Chartered Professional Accountant, lawyer, financial planner or insurance agent who has specific knowledge and experience in the topics for which you are requesting advice. Chartered Professional Accountants can help individuals with a variety of financial issues, including tax assistance, financial planning, management consulting and valuation services for businesses. Many Chartered Professional Accountants also have expertise in providing services to elderly clients and their families, including designing, implementing and monitoring financial strategies for maturing individuals and families to assist them in maintaining and enjoying their personal independence.

1.1 Health, Medical and Financial Decision Making

During an illness, it can be difficult or impossible to communicate your wishes about what kinds of health-care decisions you would like made on your behalf. Advance care planning enables you to state your wishes before you become ill. Relevant documents discussed in this section should be updated at least every five years. Talk to your legal advisor if something major happens.



If you do not plan ahead for a possible mental incapacity, the court will decide who is to handle affairs relating to your property, including paying your bills and maintaining or selling any of your property such as your house or car. Health care decisions can usually be made by your next of kin depending on the applicable substitute health care consent legislation. The court process, however, can be time consuming and costly with no guarantee of your desired result. Time limits for serving the documents and who needs to be served are set out in the legislation. Your legal advisor can provide specific guidance.

1.1.1 Living Will/Advance Directive

A living will expresses the wishes and desires of a patient when death is imminent or further treatment would be of no real benefit. Typically, advance directives may include statements to the effect that, in the event of a coma or impending death, no unusual means are to be used to resuscitate or prolong life. These directives may be so specific as to specifically indicate which life support equipment is not to be used and that nourishment and liquids are to be withheld. There may also be cases when the living will directs the doctors to use all available means to prolong life, even if the ill person will never regain consciousness or will be permanently impaired as a result of the treatment. Provincial legislation governs the making of living wills and advance directives in those jurisdictions that have implemented applicable legislation. Where there is no applicable legislation, provincial legislation dictates whether or not living wills and advance directives are permissible. In jurisdictions that have not legislated advance directives or living wills, a mentally capable person can express their wishes in writing. A person making a living will should consult their doctor to understand the issues involved. Living wills should be prepared by a lawyer who is competent in such matters and familiar with the laws of the applicable jurisdiction. Copies of the living will should be provided to the patient's primary doctor, family members and their Chartered Professional Accountant.

1.1.2 Powers of Attorney for Personal Care/Health Care Proxy

A power of attorney for personal care or health care proxy addresses much broader health care issues. These powers of attorney may be limited or unlimited and grant someone the authority to make medical decisions on behalf of the principal and to respond to changing health and medical needs as they occur. In situations where an advance directive regarding health care decisions has not been made or a guardian has not been appointed by the court, family members, depending on their relationship to the patient, may be authorized by legislation to act on behalf of the patient.

If you have private health insurance, be sure to give information regarding the insurer as well as all relevant identification numbers to your next of kin or substitute health care decision-maker. Even if you are in a nursing home, this information will be required for extended benefits, such as a semi-private or private room if you are unexpectedly hospitalized.

1.1.3 Power of Attorney for Property

A power of attorney for property (a mandate in anticipation of incapacity in Quebec) is a document in which one person grants another person the power to act or deal with their property on their behalf. The relationship is one of agency, meaning that the title to the property, such as a bank account or property deed, remains in the name of the person granting the power of attorney. In legislation across the provinces and territories this person is the “donor,” except in Ontario and Saskatchewan (the “grantor”) and in Quebec (the “mandator”). For the purposes of this discussion, the person granting the power of attorney is the “principal.” The person acting on behalf of the principal is the “attorney,” except in New Brunswick (the “donee”) and Quebec (the “mandatary”). For the purpose of this discussion, this person will be the “agent.” In Québec, a mandate in anticipation of incapacity must be homologated by the court in order to become effective. Homologation is required to verify that the mandator is incompetent and to ensure the existence of the mandate and that it is valid.

Rights granted to the agent can be specific (for example, acting for the principal to pay the bills during a hospital stay) or general, which gives the agent the power to basically do anything that the principal can legally do, subject to prescribed exceptions.

A specific power of attorney that is granted to a person is usually a non-revocable power of attorney, i.e., the power ceases when the task provided by the power of attorney is completed.

A general power of attorney is usually revocable and remains effective until the principal revokes the power of attorney, dies, or becomes mentally incapable. A power of attorney can continue in the event of the principal’s mental incapacity, if certain conditions are met. The principal must be mentally competent to revoke a power of attorney.

A continuing or enduring power of attorney will contain a prescribed clause stating that the power will continue during the incapacity of the principal. Generally a continuing or enduring power of attorney becomes effective at the time that it is signed but it does not mean that the principal cannot deal with their own property. Often, the principal will choose to deal with their own property while mentally capable. It is recommended that an executed continuing or enduring power of attorney be left with a trusted third party with instructions regarding determining whether or not the principal is mentally incapable.

Some jurisdictions provide that the principal may choose whether or not the power of attorney comes into effect at the time of execution or on some future date or contingent event, such as mental incapacity. This is known as a springing power of attorney. The governing legislation generally provides a procedure for determining when the contingent event has occurred.

All powers of attorney are governed by the applicable provincial or territorial legislation. Formalities are required, such as number of witnesses, minimum age of the principal and agent, and use of a prescribed form and/or language to make a power of attorney. You should consult a lawyer skilled in such matters when making a power of attorney or reviewing an existing power of attorney regarding whether it still meets your needs.

Banks often require that their own power of attorney document be completed even if a principal has given an agent authority to write cheques and make deposits and withdrawals on their behalf. It is best to inquire if your bank will recognize a power of attorney or will require its own form.

1.1.4 Choosing Someone to Make Decisions for You

Persons chosen as substitute decision-makers (agents) should be carefully considered for their trustworthiness, reliability, compatibility with other interested parties, willingness to act and ability to deal with professionals such as Chartered Professional Accountants, lawyers and health care providers to make appropriate decisions in the other person's best interests. An alternate agent should also be considered in case a person's first choice cannot act. At times, multiple agents may also be desirable. Provincial legislation will generally specify how the agents are to act, unless otherwise stated by the principal in the document.

If no enduring power of attorney exists and a person is no longer competent to execute such a document, a friend or family member may choose to apply to court to become guardian or similar representative of the principal's property. The Public Trustee, Public Guardian and Trustee or similar public office, depending on the jurisdiction, may also apply to

> Advance directives take the "crisis mode" out of decision-making

court to manage a person's affairs. In either of these cases, there is no guarantee that the guardian appointed by the court would be the principal's choice. To avoid this outcome, everyone should have a power of attorney.

1.1.5 Do Not Resuscitate (DNR)

A do not resuscitate (DNR) order instructs medical personnel not to perform lifesaving cardiopulmonary resuscitation (CPR) or other procedures to restart the heart or breathing once they have ceased. The physician can write an order on a patient's health record with regard to a living will or advance directive or if, in the physician's judgment, resuscitating the patient would be futile or not beneficial.

Be certain that your physician and the person named as your health care proxy are aware of a DNR order if you have one. In this situation, a physician should communicate with the patient, family and hospice staff to establish a treatment plan.

1.2 Planning to Meet Financial Needs

Many families experience a significant change in their financial situation as a result of a loved one's illness or death. Meeting short-term and long-term expenses and commitments and achieving a sense of security may become problematic.

The introduction of a terminal illness or death into a family or household can cause many types of changes. Worries about medical expenses, loss of income and an uncertain future can combine to weigh heavily on you and your family. You may find you:

- charge purchases you don't really need
- make only the minimum payments on your credit card
- take cash advances on credit cards
- borrow more and more money from family and friends
- use your cash reserves to pay bills
- receive new bills before old ones are paid
- reach or exceed your credit limit

This section discusses the best way to access financial resources and manage your affairs in these circumstances. Some options may be more beneficial than others and the impact on the family's financial situation should be considered carefully.

1.2.1 Disabililty Insurance

Disability insurance coverage is designed to pay your expenses while you are disabled and cannot work. If you are employed you may be covered through your benefits coverage. You have to meet a strict definition of disability to qualify for benefits from government programs (e.g., CPP/QPP) and, therefore, should not rely on them as your only source of income in the event you become disabled. Instead, find out if you have group disability insurance through your employer. It may be paid for by the company, or you may pay part of the premium. If disability coverage is not available at work or if you are self-employed, you should consider purchasing an individual policy from a private insurer. Most policies pay a percentage of your income for anywhere from a couple of months to age 65. The premium may vary depending on the waiting period. Consult a professional advisor to determine the right plan for you. The Canadian Life and Health Insurance Association has a Guide to Disability Insurance on its website in the Consumer Information section under Glossary, Guides and Information Booklets. See **www.clhia.ca** or **clhia.uberflip.com/i/199350-a-guide-to-disability-insurance**.

> Do you have any disability insurance?
>
> Are you owed benefits?

Employment Insurance also offers sick leave benefits to insured employees. If you are self-employed, you may wish to consider signing up with the Employment Insurance Commission for coverage of special benefits including sickness benefits and compassionate care benefits. Compassionate care benefits provide insured workers the ability to take time off work to care for a gravely ill relative who is at significant risk of dying. There is a waiting period prior to making a claim for either sickness benefits or compassionate care benefits and the benefits are provided only for a specific number of weeks. For further information, contact Service Canada at **www.servicecanada.gc.ca**.

1.2.2 Canada Pension Plan Disability Benefits

Canada Pension Plan (CPP) disability benefits provide a monthly taxable benefit to contributors who are disabled. In order to be eligible for these benefits you must be under 65 years of age, have stopped working because of your severe and prolonged disability, and have paid into CPP for at least four of the past six years or, if you have paid into CPP for at least 25 years, you must have made contributions to the plan in three of the past six years. A few exceptions to these conditions are possibly available if the applicant stayed at home and raised children, applied too late for the CPP disability benefit, separated or divorced, lived and worked in another country or was physically or mentally unable to apply.

The benefit amount a person receives includes a base benefit plus an amount based on how much one has contributed to the CPP during one's working career. The maximum disability benefit is increased annually according to the cost of living index.

Applications can be made online or by contacting Canada Pension Plan for an application package, which includes a questionnaire, application, consents, child rearing provision form and medical report, to be completed and forwarded to your local Service Canada office. Applications are generally processed within four months. Assessment of an application is a two-step process. The first step is to ensure that the applicant has made sufficient contributions over their working life to qualify. The second step involves an assessment by the medical adjudicators. Applicants who are terminally ill receive priority and their applications are generally reviewed within 48 hours of receipt of the application. If you are 60 to 64 years old, you may wish to consider whether to apply for CPP retirement benefits at the same time as applying for disability benefits. While you cannot receive the disability benefit and the retirement benefit at the same time, retirement benefits tend to start sooner. The retirement benefits will have to be paid back and are usually recovered starting with the first disability payment. Conditions apply, so consult your professional advisor. See:

- **www.servicecanada.gc.ca/cgi-bin/search/eforms/index.cgi?app=profile&form=isp1151**
- **www.esdc.gc.ca/en/reports/pension/cpp_disability_benefits.page**
- **www.esdc.gc.ca/en/cpp/disability/before_applying.page**

1.2.3 Registered Disability Savings Plans

A Registered Disability Savings Plan (RDSP) provides taxpayers with the opportunity to contribute up to a prescribed maximum of $200,000 for a beneficiary, up to age 59, who qualifies for the disability tax credit. Although contributions to an RDSP are not tax deductible, earnings within the RDSP are not taxable. For beneficiaries who are 49 years of age or younger in a tax year, the Canada Disability Savings Grant and Canada Disability Savings Bond may increase the amount of the RDSP. This increase requires that families meet an income test. Note that withdrawals from a RDSP that exceed contributions are taxable.

A beneficiary with a shortened life expectancy is entitled to withdraw taxable amounts up to $10,000 per year from their RDSP without having to repay amounts received from Canada Disability Savings Bonds and Canada Disability Savings Grants deposited in their RDSP within the last 10 years. A medical doctor must certify in writing that, in their opinion, the beneficiary has a maximum life expectancy of up to five years. The beneficiary must elect on the prescribed form and submit it, along with the medical certificate, to their RDSP issuer. The RDSP issuer will notify the Minister of Employment and Social Development Canada, making the plan a Specified Plan. Special contribution and withdrawal rules apply while the RDSP is a Specified Plan. See **www.esdc.gc.ca** for more information.

1.2.4 Veteran Affairs Canada

Veteran Affairs Canada administers a wide array of benefits for qualified veterans, Canadian Armed Forces members, RCMP members, including discharged members, and their families. Some of the services offered include financial support programs, mental health services and support, disability awards and pensions, rehabilitation services, medical coverage, home care services under the Veteran Independence Program and long-term care services. Current rates for financial support programs, a guide setting out benefits and services, mental health brochures, forms and other information is available at their website at **www.vac-acc.gc.ca** or by calling 1-866-522-2122.

Benefits are available for veterans.

1.2.5 Operational Stress Injury Social Support (OSISS)

The Operational Stress Injury Social Support (OSISS) program has established a Peer Support Network to help Canadian Forces members, Veterans and their families deal with OSI. A Peer Support Coordinator can be contacted at 1-800-883-6094 or at **www.osiss.ca**.

1.2.6 Long-term Care Insurance

Long-term care (LTC) insurance is purchased when you are healthy and is designed to pay a daily benefit if you require home care or are admitted to a long-term care facility. To receive a benefit, a doctor must certify that you require extended health care because of injury, sickness, cognitive impairment, or the inability to perform two or more of the daily activities of living (such as bathing, dressing, toileting, eating, walking, transferring, bladder control, or taking medication.)

There are a number of options when choosing LTC insurance. LTC Insurance Benefits can cover just facility care, or both home care and facility care. You can purchase any amount of coverage subject to a minimum and maximum daily amount. You may also select the length of time you wish to wait prior to receiving benefits (waiting period) and the length of time you wish to receive benefits once you qualify.

An individual should consider purchasing long-term care insurance if they have significant assets that they wish to protect, they expect they will be paying for the care they require and they wish to maintain their independence.

Long-term care insurance is offered by many life and health insurance companies in Canada. For more information, the Canadian Life and Health Insurance Association has published a brochure on long-term care insurance. To view this guide, see **clhia.uberflip.com/i/199446-a-guide-to-long-term-care-insurance**.

A variation of long-term care insurance is Critical Care or critical illness insurance, whereby the insurer is contracted to make a lump-sum cash payment if the policyholder is diagnosed with one of the critical illnesses listed in the policy. Coverage may be denied to applicants who have previously had or have an illness such as AIDS or cancer, or an underlying condition such as insulin-dependent diabetes.

CARP (formerly the Canadian Association of Retired Persons) provides information on different insurance plans including long-term care insurance and critical illness insurance. For more information see **www.carp.ca**.

1.2.7 Retirement Accounts and Pensions

There are many different kinds of retirement accounts and pensions. As part of the process of gathering information and planning for the future, it is a good idea to get a sense of how many and which kind you have. Review your investments from financial and similar institutions. Some are provided by an employer, so it is important to remember both current and past employers, including the military, when gathering documents on these accounts. Determine whether

51.5% of participants in a Registered Pension Plan (RPP) in 2013 were in the public sector

Pension Plans in Canada Survey at January 1, 2014: Statistics Canada, *The Daily*, Monday July 22, 2015

37.9% of all employees were covered by a Registered Pension Plan (RPP) in 2013

Pension Plans in Canada Survey at January 1, 2014: Statistics Canada, *The Daily*, Monday July 22, 2015 you can name a beneficiary for your plan's assets or review your earlier beneficiary choice to make it reflect your current wishes. You may find answers to many questions by reviewing the benefits handbook of your current employer. Once you create a list of the ones you have, you can begin to consider some key questions. For example:

- What benefits are available in the event of disability, retirement or death?
- Have you chosen a beneficiary for each account?
- Does that choice need to be updated?
- How do your choices fit into your overall estate plan?

Your Chartered Professional Accountant can help you answer these and other questions.

Recent government initiatives have seen the introduction of the federal pooled registered pension plan (PRPP) regime for self-employed persons and smaller employers who don't have an individual workplace pension. This type of pension is available to Canadian resident individuals with a social insurance number who work for a participating employer in a federally regulated business or industry, or they work for a participating employer in Northwest Territories, Nunavut or the Yukon. This type of pension plan will be available over time in many provinces including Alberta, British Columbia, Nova Scotia, Ontario, Quebec and Saskatchewan that are in the process of enacting provincial PRPP regimes (Voluntary Retirement Savings Plan (VRSP) in Quebec). This legislation will generally enable employers to offer a pension plan to their employees at a lower cost than if they implemented a pension plan by themselves. It will also provide self-employed persons an opportunity for a workplace pension. Contact your professional advisor on how a PRPP may be available and of benefit to you.

6,185,000 Canadian workers had a membership in an employer pension plan in 2013
Statistics Canada: *The Daily*, July 22, 2015

PRPPs receive similar tax treatment to RRSPs (with respect to contribution room), RRIFs, rollovers to RDSPs and transfers on death. Consult your Chartered Professional Accountant.

Also, the Saskatchewan Pension Plan is a prescribed specified pension plan (SPP) for certain federal income tax purposes. A contribution to this plan is deemed to be an RRSP contribution. Many of the provisions relating to RRSPs also apply to SPPs. Consult your professional advisor.

A union in a specific industry where it is common for workers to have many employers, such as in the construction industry, may have information about pension entitlements with respect to multi-employer pension plans, specified multi-employer plans or similar plans.

Also determine whether you have an existing retirement account from a former employer. If you withdrew your plan's assets when you left a job or had the plan's assets transferred to another type of retirement plan, no additional steps are necessary. There still may be a deferred pension plan with a former employer.

Note: You may need to search for these benefits. Review prior year tax returns (as far back as possible) and contact prior employers. Be aware that some of the companies where you worked could have since been absorbed by another business or gone bankrupt.

What employee benefits do you have available for death or disability?

The first important step is to identify all of your possible accounts and resources, including accounts from which you are currently receiving payments. Make sure you are receiving, or will receive, all the retirement benefits you are entitled to.

1.2.8 Canadian Pension Plan/Quebec Pension Plan

Canada Pension Plan (CPP)/Quebec Pension Plan (QPP) benefits are available to eligible Canadians who have made contributions during their working life. Retirement payments are payable at age 65 depending on the number of years you contributed and the prescribed maximum amount. You can begin receiving retirement benefits as early as 60 years old at a reduced amount or you can continue to work and postpone receiving benefits until you are 70 years old at which time you will receive a higher amount. You can ask Services Canada for a Contribution of Earnings through their website at www.servicecanada.gc.ca. Further information is available at www.esdc.gc.ca/en/cpp/statement_contributions.page.

5.4 million Canadians cared for a senior friend or family member in 2012, most of whom lived in their own home
Statistics Canada: *The Daily*, February 25, 2015

If you live in Quebec, you can contact Régie des rentes du Québec for a Statement of Participation at www.rrq.gouv.qc.ca/en/services/services_en_ligne/Pages/releve_participation.aspx.

1.2.9 Old Age Security

The Old Age Security (OAS) is a monthly benefit available for most Canadians 65 years of age or older, who have been resident in Canada for a minimum of 10 years after reaching the age of 18. For those who reside outside of Canada, they may still be eligible if they have lived in Canada for a minimum of 20 years and meet other conditions. You can defer receiving the OAS benefit for up to five years for a higher monthly amount at that time. You will not be eligible for the Guaranteed Income Supplement and your spouse/common-law partner will not be eligible for the survivor allowance during the deferral. Consult your professional advisor to decide when to take the OAS pension. A survivor allowance is available to lower income spouses/common-law partners aged 60 to 64. The maximum monthly benefit is indexed quarterly per year to reflect adjustments to the consumer price index. Pensioners with individual net income in excess of an annual income threshold must repay part or all of the maximum OAS pension. For current average and monthly amounts as well as income thresholds, see **www.esdc.gc.ca/en/cpp/oas/payments.page**.

OAS recipients are generally required to apply every year for benefits unless they receive an automatic enrolment form from the government the month after the month they turn 64 years old. Those who receive the automatic enrolment form and wish to defer their OAS benefits may either access their My Service Account and follow directions or sign and return mail the automatic enrolment letter as instructed in the letter.

1.2.10 Guaranteed Income Supplement

The Guaranteed Income Supplement (GIS) provides additional money on top of the Old Age Security Pension to low income seniors living in Canada. To receive the annual GIS you must be receiving the OAS pension. The GIS is based on your annual income or the combined annual income of you and your spouse (or common law partner). Since annual incomes change from year to year, the GIS must be renewed each year. This is done automatically by filing your personal tax return by April 30th. You will receive a letter in July stating whether or not you will be receiving GIS. If a tax return is not filed, then a renewal application must be forwarded to Service Canada. The GIS is subject to a low income test and stops being payable if the maximum income threshold has been exceeded. See **www.esdc.gc.ca/en/cpp/oas/payments.page**.

Low-income seniors will receive an additional benefit to their Old Age Security (OAS) and Guaranteed Income Supplement (GIS) benefits. The amount will depend on the senior's income and is subject to a capped amount.

CPP, OAS and GIS benefits can be paid by direct deposit to your bank account. This is generally done on the third-last banking day each month, except in December when it is deposited on the third-last banking day before Christmas Day. Alternatively, cheques can be mailed directly to the recipient. Both CPP and OAS can be received on a non-resident basis. GIS is only available for Canadian residents. See **www.esdc.gc.ca/en/cpp/payment_dates.page**.

QPP deposits are made on the last working day each month. See **www.rrq.gouv.qc.ca/en/dates_paiement/Pages/dates_paiement.aspx**.

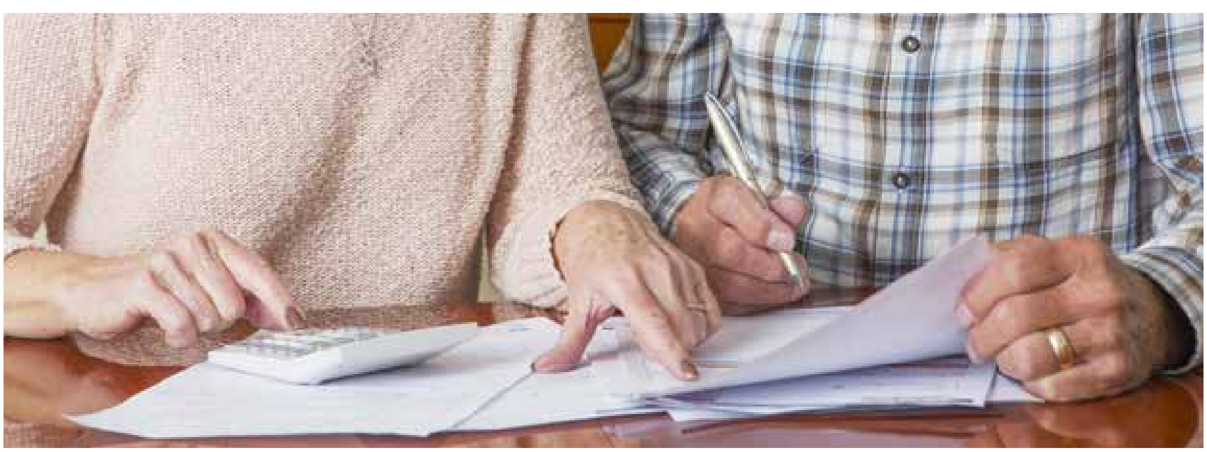
Seniors in many provinces and the territories may be entitled to receive benefits under a supplementary income plan if they meet an income test or other conditions.

1.2.11 Withdrawing Funds from a Registered Retirement Savings Plan

Early withdrawal of funds from a Registered Retirement Savings Plan (RRSP) may appear to be a great source of funds during an emergency, however, early withdrawals will affect the growth potential of the RRSP and the amount withdrawn is subject to withholding tax. The percentage of withholding tax varies depending on the amount withdrawn.

1.2.12 Registered Retirement Income Fund

You can transfer your RRSP amount to a Registered Retirement Income Fund (RRIF) when your RRSP matures in order to defer paying taxes on the full amount at that time. Rather than withdrawing the full amount of your RRSP and being subject to tax, you can transfer your RRSP into a Registered Retirement Income Fund (RRIF). Withdrawals begin in the following year. Although you are still subject to tax on amounts received, you are only required to



withdraw a minimum prescribed amount per year. This income qualifies for the pension tax credit. A RRIF must be established by the year-end in which an annuitant turns 71 years old, at the latest. A prescribed annual minimum must begin to be paid out of the RRIF in the following year. Similar rules apply for PRPPs and SPPs. Consult your Chartered Professional Accountant.

Individual Pension Plans (IPPs) are also subject to minimum annual withdrawal requirements, similar to RRIFs, where the plan is a defined benefit RPP and certain conditions are met, i.e., the plan has a maximum of three members and a minimum of one member is related to a participating employer or the plan is a designated plan where a minimum 50% of the plan members total pension adjustments are owned by connected individuals to the employer or the employees themselves are highly compensated. The plan will be designated an IPP where it would be reasonable to conclude that at least one member's rights exist to avoid the definition.

The Minister has the discretion to waive a plan's status as an IPP where the Minister finds the circumstances appropriate. Consult your professional advisor.

1.2.13 Tax-Free Savings Accounts

A Tax-Free Savings Account (TFSA) is an investment vehicle created by the *Income Tax Act* to encourage people to save for big purchase items. While the contributions paid into a TFSA are not tax-deductible the income earned on the savings is not taxable and any amount in a TFSA can be withdrawn the year after it was invested without penalty. There is a maximum annual deposit amount for each Canadian resident who is at least 18 years old and unused contribution room can be carried forward indefinitely. Amounts withdrawn are reinstated the following year in contribution room. Similar to RRSPs and RRIFS, a TFSA account holder is deemed to receive the fair market value of the TFSA immediately before death. Any increase after death in amounts distributed to beneficiaries is taxed in their hands. In some situations this may not apply. For instance, the spouse/ common-law partner can, immediately before the death of the TFSA account holder or before the end of the calendar year following the year in which the TFSA account holder dies, designate the amount in a TFSA to be an exempt contribution as a survivor payment to their own TFSA. The contribution must be designated in prescribed form within 30 days of being made. The initial holder can designate a survivor to be the initial holder of the TFSA. The successor survivor can also designate their own successor survivor and revoke any designations of beneficiary made by the survivor. Consult your Chartered Professional Accountant.

1.2.13.1 RRSPs/RRIFs and TFSAs—anti-avoidance rules

The anti-avoidance provisions for each of RRSPs, RRIFs, and TFSAs address transactions that give an annuitant an advantage, or involve prohibited investments or non-qualified investments.

Transactions that give an annuitant an advantage, such as removing funds from the RRSP/RRIF or that involve a swap transaction that shifts value from an RRSP/RRIF without including the amount in income, are taxed at 100% of the fair market value of the advantage.

Income earned on a prohibited investment, which includes a debt or investment in a "significant investment" or with which the annuitant does not deal at arm's length, is also taxed at 100%. A "significant investment" generally includes a debt or investment where the annuitant or a non-arm's length person holds at least 10% of the investment. The fair market value of the prohibited investment is subject to a 50% tax.

Non-qualified investments are taxed at 50% of their fair market value. Under certain circumstances this tax may be refundable. "Non-qualified investments" are investments that are not qualified investments as prescribed by the *Income Tax Act* and are subject to tax at 100% of their fair market value if they are not removed from a registered plan within 90 days of being notified by the Minister of National Revenue. Consult your professional advisor to ensure that your investments are qualified.

1.2.14 Pension Splitting Provisions

You and your spouse/common-law partner can reallocate up to one-half of private pension income between you to be eligible to claim the pension credit for the tax year. You must each elect to do so in prescribed form by your filing deadline for the taxation year. This may also be done in certain circumstances when a spouse/common-law partner dies.

1.2.15 U.S. Social Security Benefits

The net inclusion rate of U.S. Social Security Benefits received by Canadian residents and their spouses/common-law partners is 85%, except for recipients who have continued to receive these benefits since before 1996, then the net inclusion rate is 50%.

1.2.16 Federal Government Initiatives

The federal government recognizes the importance of having a retirement income system in Canada to help seniors live a quality life. Over recent years, the government has:

- increased the age limit when Canadians must stop investing in their Registered Retirement Savings Plans (RRSPs) from 69 years of age to 71 and begin withdrawing a pension under a Registered Retirement Income Fund (RRIF) the following year;
- reduced the RRIF minimum withdrawal amount;
- permitted phased retirement arrangements under defined Registered Pension Plans to allow workers to continue working while receiving a pension;
- introduced the Tax-Free Savings Account to help Canadians save for big ticket purchases without being taxed on the interest earned on their savings;
- permitted senior couples to split pension income; and
- introduced pooled registered pension plans at the federal level which are at various stages of being phased in over time in many provinces including Alberta, British Columbia, Nova Scotia, Ontario, Quebec and Saskatchewan.

Recent changes to CPP/QPP include:

1. removal of the work cessation test which allows workers to retire as young as 60 years of age without any work interruptions;
2. increased incrementally over three years the number of low-income years that are dropped from the calculation to determine your pension benefit;
3. require workers under 65 years old who receive a CPP retirement benefit to continue to contribute as well as their employers if they keep working;
4. permit workers aged 65 to 70 who receive a CPP retirement benefit to contribute voluntarily and, if so, their employers will be required to contribute;
5. the early pension reduction for each month for pensioners who take their pension prior to age 65 and as early as age 60 and is gradually increased over five years to 2016; and
6. the late pension augmentation for each month for pensioners who take their pension after turning 65 up to age 70 was gradually increased.

The federal government is continuing the process of improving the federal public pension plan system by meeting with provincial and territorial finance ministers. For further developments, consult your advisor on how potential changes to the Canada Pension Plan and other changes addressing seniors may affect you in the future.

1.3 Planning Your Living Arrangements

Don't make any rash, quick decisions. For homeowners, options for reducing expenses or tapping equity include:

- Stay at home and rent out rooms. This provides taxable income. Avoid making emotional decisions.
- Rent out your residence and move to a relative's home or apartment. This option will also provide taxable income, but the tax advantages and disadvantages should be weighed appropriately. It may affect your principle residence exemption. The *Income Tax Act* exempts the capital gain from tax on your home during the years that you and your family or a family member lives in your home. You can only designate one principal residence in a year. It is possible to rent out your home without affecting your principal residence exemption if you file an election for each year you rent to a maximum of four years. Professional advice is recommended.
- Consider selling the home if it is declining in value or the neighborhood is unsafe.
- Consider creating a trust to hold your principal residence.

Aging at home can provide dignity and independence, but it must be safe and practical

- Obtain a reverse equity mortgage, but be aware that the costs can be very high.
- Determine if you can defer your property taxes.

1.3.1 Reverse Mortgages

A reverse mortgage allows homeowners who are 55 years of age and older to borrow money against the equity in their home for any purpose, such as to pay health care costs or to augment their retirement income. The advantages of a reverse mortgage are:

- You can enjoy some of the equity you have built up in your home over the years and still live in your home;
- There is no tax payable on the money you are borrowing; and
- The income does not affect government income supplement plans such as Old Age Security and Guaranteed Income Supplement.

You may have heard the term "CHIP loan," which is the Canadian Home Income Plan or "CHIP reverse mortgage." A private company, HomEquity Bank, offers reverse mortgages in Canada, see **www.chip.ca**. Some financial institutions may also offer other options. The disadvantages of a reverse mortgage are that the loan is at a higher mortgage rate than other mortgages, so the equity in your home will decrease and there will be less value for your heirs. Other costs associated with a reverse mortgage include fees, such as an application fee, closing fee or home appraisal fee and legal costs. There is also a penalty if you sell your house or move out within three years of getting the reverse mortgage. Consider other alternatives to a reverse mortgage such as finding another type of loan, for example, a conventional mortgage, credit card or line of credit, or downsize to a smaller home, rent or consider "assisted living" or another type of accommodation. Another possibility would be to sell your home to a family member and retain a life interest or consider a mortgage-financed life annuity. Talk to a professional advisor about the best option for you. See also the Financial Consumer Agency of Canada (FCAC) at **www.fcac-acfc.gc.ca** and **www.fcac-acfc.gc.ca/eng/resources/publications/mortgages/Pages/Understa-Comprend.aspx** for more information on this subject.

1.3.2 Housing Alternatives

Each option can have complex tax rules regarding what is deductible, when and how much. Consult with your advisors when deciding what would be the best alternative for you.

Despite a desire to live at home independently, there may be times when it is impractical or unsafe for one to continue to live at home alone. The following are other housing alternatives that can be considered.

1.3.2.1 While living at home

A family member or friend can move in with you in order to assist with day-to-day activities and to provide companionship.

1.3.2.2 Moving in with your children

As much as you may want to be independent and not be a burden to your children, sometimes both practicality and finances may dictate that moving in with your children is the best option. If your children work, then this option can be supplemented with adult day care, either in the home or in an off-site facility that will provide meals, socialization and assistance with activities of daily living (ADLs).

1.3.2.3 Respite care

This is short-term care designed to temporarily relieve caregivers from their caregiving responsibilities. Respite care can be offered on an in-home, community-based or residential basis. Respite care, a short-term stay in a long-term care home, may be available for seniors who live alone after release from hospital who do not have a caregiver in place and cannot yet function independently.

1.3.2.4 Life lease

A Life Lease is an alternative to owning your own home. The usual not-for-profit ownership structure and operation means affordable rent. Your equity is freed up to invest or use where you need it most — savings, travelling, family, etc. It allows for ease of estate and financial planning. For example, the entrance fee is refunded once the lease is terminated or upon death of the tenant. The building owner/operator is responsible for re-leasing the apartment.

Life Lease is different from outright purchase of a condominium in that residents are required to contribute only a portion of the cost or value of their apartment. The financial contribution is called the Entrance Fee. In return for the Entrance Fee the tenant is granted a lifetime lease on their chosen apartment. Tenants are responsible for paying a monthly occupancy expense or rent. A Life Lease may be terminated by the tenant for any reason within a particular time frame (e.g., by giving 60 days' notice). When the lease is terminated the Entrance Fee is refunded, less an administration fee. For example, see the Life Lease Housing Guide at **www.mah.gov.on.ca**, or **www.mah.gov.on.ca/AssetFactory.aspx?did=10455**.

1.3.2.5 Assisted living

For those who need more help there are a broad range of options, from small private homes with few residents to large institutional assisted living facilities. Generally, an assisted living arrangement will provide a room or apartment to the resident, as well as housekeeping and laundry services, meals, social activities and some assistance with ADLs.

1.3.2.6 Long-term care home

It is still customary for many people to think of "nursing homes" when they are considering care for aging loved ones. However, in Canada's senior care industry, you will not hear many staff refer to "nursing homes." The traditional "nursing home" in Canada is referred to as a "long-term care" home, where patients will receive medical care and attention as warranted — perhaps from nurses on call around the clock.

The term "nursing home" also carries some negative connotations and as a generic catch-all term it is simply not fitting as a description of the many retirement living options available. In Canada today, senior care is increasingly adaptable and flexible, with a spectrum of options from complete independence to thorough care.

Some options you can find in retirement home living today include the following:

- Active Adult Communities allow you to live in a community with other people your own age with access to often luxurious amenities, such as a golf course, swimming pool, etc. These communities are usually age-exclusive and the age of exclusion may be as low as 50 years. That doesn't mean your grandkids can't visit! They just can't live with you.
- Independent Living also allows you to live in an exclusive community but you might also participate in communal meals and other activities. You may be protected by security and you may even want to hire your own home health care if needed.

- Congregate Living may mix together people requiring various degrees of care, including, for example, independent seniors along with those who require help with house cleaning or other regular daily activities.
- Long-term care homes offer residents care as required. Many people still think of these as “nursing homes.” These may be well-staffed with nurses and other medical staff and there may be many residents who require consistent care.

It’s important to note that the retirement home industry is responding to seniors’ changing needs. The vast majority of retirement homes in Canada seek to treat residents with the very highest levels of respect, befitting those who have contributed so much to society in their lives. As the baby boomer generation sees their aging parents go into retirement homes, they are demanding increased options and more respectful care. In fact, they are effecting changes as they enter retirement age themselves that they will one day benefit from when they too decide to move into a retirement home.

In Ontario, for example, the Retirement Homes Regulatory Authority oversees the licensing of retirement homes and compliance with applicable laws and regulations, see **www.rhra.ca/en**. Their website also provides many useful resources, see **www.rhra.ca/en/links**.

1.3.2.7 Hospices

Hospices are community-based volunteer organizations dedicated to helping people who are living with a life-threatening or terminal illness. Their mission is to help these people live at home — wherever that may be — or in a home-like setting as comfortably and fully as possible. They provide support to families and friends, with a range of services focused on quality of life until the end of life as well as bereavement support for loved ones. Services can include respite care and caregiver relief, complementary therapies, liaison with other community supports, transportation and friendly visiting by trained volunteers. Some communities also have residential hospices.

In medieval times, a hospice was a place of shelter or sanctuary for travellers, pilgrims and others. No journey in life is more difficult than the path followed by those suffering a life-threatening illness, so “hospice” has now become a philosophy of care built around the quality of life for the dying and those that care for them.

Hospice palliative care is active, compassionate care directed towards improving the quality of life of those with a life-threatening illness. It supports people diagnosed with a life-threatening illness and their families while living with the illness, during the time of dying and death and for a bereavement period.

1.4 Tax Planning: Deductions and Credits

Keep track of all of your expenses and get receipts to help you reduce your income tax payable, because the federal government uses a graduated tax system to assess personal income tax and tax credits are used in many situations rather than tax deductions to create a fairer tax system. Tax deductions create different tax benefits for higher income earners than lower income earners whereas the tax benefit received from a tax credit is the same for all income earners, usually calculated at the lowest marginal rate. An exception to that rule would be the tax credit for eligible charitable donations over $200. For further discussion, see Section 2.7, Charitable Donations. For more information on deductions, tax credits and tax rates, see **www.cra-arc.gc.ca**.

1.4.1 Disability Supports Deduction

This deduction is intended to assist taxpayers with a mental or physical impairment to attend school or work or conduct research under a grant.

Expenses can only be claimed by the person with the impairment and expenses eligible for this tax deduction are listed in the *Income Tax Act*. Examples include full or part-time attendant care expenses for a person who qualifies for the disability tax credit and prescribed devices that help a person function with a disability, such as Braille note-takers or printers, electronic speech synthesizers, optical scanners, page-turning devices and teletypewriters. Other expenses for services that are certified by a medical practitioner as being necessary, such as job-coaching services (other than career counselling or job placement services), note-taking services, reading services, talking textbooks, tutoring services and voice recognition software are also eligible. Expenses claimed here cannot be claimed for the medical expenses or if they are reimbursed by insurance or other non-taxable payment. This list is not exhaustive. Consult your Chartered Professional Accountant to ensure that you are claiming all eligible expenses.

1.4.2 Caregiver Amount

A caregiver tax credit is available to individuals who care for a live-in dependent parent, grandparent or other relative who has a physical or mental infirmity. The tax credit is a percentage of a particular amount that is phased out at a prescribed level of the dependant's income.

In order to qualify, the dependant must be:

- your or your spouse's/common-law partner's child or grandchild, or
- your or your spouse's/common-law partner's aunt, uncle, brother, sister, nephew, niece, parent or grandparent and a resident in Canada (visitors are not eligible).

Also, each dependant must:

- be at least 18 years of age or older while living with you
- have a net annual income of less than the prescribed amount
- have been dependant on you because of a mental or physical infirmity, or
- in the case of a parent or grandparent, be 65 years of age or older.

You cannot claim this amount if you were required to make support payments regarding that child. However, you can claim the amount if you were separated for part of the taxation year due to a marriage or relationship breakdown as long you do not claim any support payments paid to your spouse/common-law partner. Talk to your Chartered Professional Accountant about the best option for you.

You can split the claim for the same dependant with another person up to the maximum available for that dependant.

You cannot claim the caregiver tax credit and the infirm dependant age 18 or older credit for the same dependant.

1.4.3 Infirm Dependant Age 18 or Older

This credit is available if you support an infirm dependant relative who is 18 years of age or older and a Canadian resident. This tax credit is a percentage of a certain amount and is reduced by the dependant's income over a certain threshold until it is completely phased out at a maximum income threshold.

The dependant relative must be your or your spouse's/common-law partner's child or grandchild who is 18 years of age or older and is mentally or physically impaired. You can claim this amount for more than one person where certain conditions are met if the person is:

- your or your spouse's/common-law partner's aunt, uncle, brother, sister, nephew, niece, parent or grandparent and resident in Canada (visitors are not eligible)
- 18 years of age or older
- dependent on you either alone or with others for support
- a Canadian resident at any time in the year.

The credit is not available if you can claim a caregiver amount as discussed above in section 1.4.2 for that dependant. You can claim this credit if you are also claiming the eligible dependant credit but you cannot claim this credit if someone else is claiming the eligible dependant credit.

You can claim this credit for each eligible dependant.

You cannot claim this amount if you were required to make support payments regarding that child. However you can claim the amount if you were separated for part of the taxation year due to a marriage or relationship breakdown as long as you do not claim any support payments paid to your spouse/common-law partner. Talk to your Chartered Professional Accountant about the best option for you.

You can split the claim for the same dependant with another person up to the maximum available for that dependant.

1.4.3.1 Family caregiver tax credit

An enhanced, non-refundable 15% tax credit on a prescribed amount, the Family Caregiver Tax Credit, provides tax relief to caregivers of related dependants, including spouses/common-law partners and minor children who are mentally or physically disabled. A minor child is eligible where it is likely they will be indefinitely dependent for personal care and needs compared with others of a similar age. The Family Caregiver Tax Credit amount is indexed each taxation year. Consult your Chartered Professional Accountant regarding how this credit could reduce your taxes.

1.4.4 Medical Expenses Tax Credit

You can claim medical expenses for any 12-month period that ends in the tax year for which you are filing your tax return and can claim expenses for yourself, your spouse, common-law partner and minor children. The expenses must exceed the lesser of a prescribed threshold amount and 3% of your net income.

Medical expenses of a dependent relative that exceed the lesser of a prescribed threshold amount and 3% of their net income may also be claimed. Dependants include children, grandchildren, parents, grandparents, brothers, sisters, aunts, uncles, nieces or nephews that depend on you for support.

Medical expenses for a deceased taxpayer can be claimed for any 24-month period that includes the date of death.

Medical expenses that can be claimed for tax purposes are prescribed in the *Income Tax Act* and its Regulations. Expenses that are eligible for the medical expenses tax credit include:

- medical and dental services
- full-time attendant care at home or nursing home care
- attendant care
- group home care
- school or institution care
- ambulance services
- transportation services
- certain travel expenses
- artificial limbs, wheelchairs and other supportive devices
- diapers, catheters and other incontinence products
- eyeglasses
- oxygen tent, insulin, related equipment and shots for anaemia prescribed by a doctor
- guide dogs and related expenses
- bone marrow and organ transplant related expenses
- home alterations, construction and renovations to assist a disabled person
- hearing and speech loss rehabilitative therapy
- sign language interpretation or real-time captioning services
- note-taking services
- voice recognition software

- reading services to help a blind person
- deaf-blind intervening services
- moving expenses
- alterations to a residential driveway to provide for access to a bus for a patient who has a severe and prolonged mobility impairment
- costs to adapt a van for a wheelchair
- training courses related to caring for a disabled person
- therapy for a disabled person
- tutoring services for a person with a learning disability or a mental impairment
- individual therapy plans
- various devices or equipment that are prescribed by regulation
- prescribed medications
- diagnostic services such as laboratory or radiological
- dentures
- private health services plan premium
- expenses incurred for gluten-free foods
- medical devices or drugs under Health Canada's Special Access Programme
- medically required marihuana as permitted under the *Marihuana Medical Access Regulations* or the *Controlled Drugs and Substances Act*.

This list is not exhaustive. Consult your Chartered Professional Accountant to be sure that you are claiming all the medical expenses that you are entitled to.

1.4.5 Disability Tax Credit

An individual is entitled to a non-refundable disability tax credit if they are certified by a prescribed medical professional as being blind or as suffering from a "severe and prolonged impairment in physical or mental functions." This impairment must "markedly restrict" the ability to perform a basic activity of daily living all, or substantially all, of the time, or must "markedly restrict" the ability if not for therapy. The therapy must be administered a minimum of three times a week for at least 14 hours per week.

In order to qualify for the disability tax credit, a medical certificate on Form T2201 must be filed. The certificate can be filed at any time during the year. Filing the form before filing the tax return may save time in assessing the return because the CRA has the opportunity to review the certificate and status ahead of time.

Canada Revenue Agency Agence du revenu du Canada

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Disability Tax Credit Certificate

Use this form to apply for the disability tax credit (DTC). Being eligible for this credit may reduce your income tax and open the door to other programs. For more information, go to **www.cra.gc.ca/dtc**.

Step 1: Complete **only** the sections of Part A that apply to you. Remember to sign this form.

Step 2: Ask a medical practitioner to complete and certify Part B.

Step 3: Send us the completed and signed form.

For more information, see the General information on page 6. For definitions, examples of impairments that may qualify for the DTC, and a self-assessment questionnaire, see Guide RC4064, *Disability-Related Information*.

Part A – To be completed by the person with the disability

Section 1 – Information about the person with the disability

First name and initial		Last name		Female / Male
Mailing address (Apt No – Street No Street name, PO Box, RR)				Social insurance number
City	Province or territory	Postal code	Date of birth:	Year Month Day

Section 2 – Information about the person claiming the disability amount (if different from above)

First name and initial	Last name	Social insurance number

If you have a disability and have not had it certified by the applicable prescribed medical professional you may, depending on the disability, be able to request an amendment to a previous tax year up to a maximum of 10 calendar years. See Form T2201 at **www.cra-arc.gc.ca/E/pbg/tf/t2201/README.html** and consult your Chartered Professional Accountant.

A taxpayer can file a Notice of Objection, subject to prescribed time limits, when the CRA has determined an applicant is not eligible for the Disability Tax Credit. This Notice of Objection of a Notice of Assessment or Reassessment of their tax return can be filed whether or not there is any tax payable. Eligibility for the Disability Tax Credit is fundamental to establishing a Registered Disability Savings Plan. Time limits apply, so consult your Chartered Professional Accountant.

Prescribed medical professionals include audiologists, occupational therapists, medical doctors, optometrists, physiotherapists, psychologists, and speech-language pathologists.

Basic daily living activities include the ability to dress, eliminate, feed, hear, speak, walk or mentally function for everyday living.

An individual may receive a medical certificate if they are "significantly restricted" where they are not markedly restricted in any one activity but the cumulative effect of two or more basic activities of daily living significantly restrict their abilities.

1.4.6 Home Accessibility Tax Credit

A home accessibility tax credit may be available for expenses incurred to make a home more accessible for a senior or disabled person where certain conditions are met. Consult your Chartered Professional Accountant.

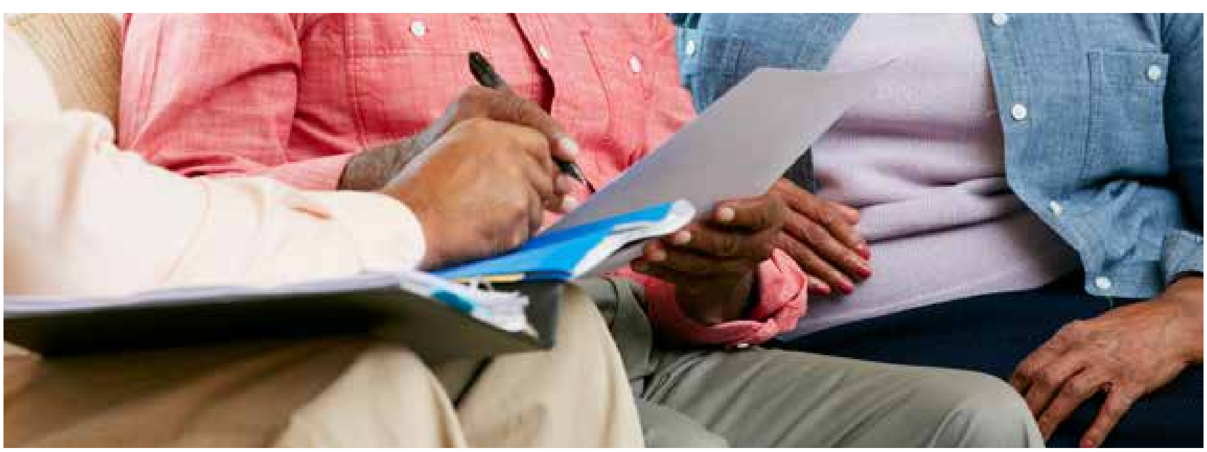
CHAPTER 2

Planning for Your Estate

2.1 Estate Planning

Estate planning is a process designed to help you manage and preserve your assets while you are alive, and to conserve and control their distribution after your death according to your goals and objectives. Your age, health, wealth, lifestyle, life stage, goals and many other factors determine your particular estate-planning needs.

For example, you may have a small estate and may be concerned only that certain people receive particular assets or you may have a large estate and your foremost goal is minimizing any potential tax liability. While there are no estate taxes in Canada, under the *Income Tax Act*, a person is deemed to dispose of all of their property at fair market value immediately before death, which could trigger tax liability, such as capital gains and recapture where capital property is depreciated. Any additions or improvements in the year are added to the selling cost or fair market value. Registered Retirement Savings



Plans (RRSPs), Registered Retirement Income Funds (RRIFs), Tax-Free Savings Accounts (TFSA) and similar plans must be collapsed. A Chartered Professional Accountant and estate lawyer should be consulted to determine the appropriate estate plan. A Chartered Professional Accountant can also prepare the terminal returns and do the tax planning going forward. If you own assets in a foreign jurisdiction, consult with a lawyer of that jurisdiction as to how the local law would affect your property at death. For example, you may be subject to estate tax if you own property in the United States at the time of death. Also, if you decide to gift U.S. property during your lifetime you may be subject to gift tax. This is a complex area, subject to exemptions, tax treaties, tax credits and filing deadlines. Professional advice from an accountant and lawyer of the particular jurisdiction is recommended.

Estate planning is not only for the rich. It can be used by anyone to ensure that financial concerns and goals are addressed after death. That may include providing for dependants, avoiding probate or reducing tax.

Estate planning may be as simple as writing a will (the cornerstone of any estate plan) or as complex as executing trusts and exploring sophisticated tax or estate planning techniques.

Some of the purposes of estate planning are:
1. To decide how a person's assets are to be distributed at death;
2. To minimize tax owing at death; and
3. To have a way of funding taxes at death.

2.1.1 Special Circumstances

Estate planning may also be important if:
- there are minor or special-needs children
- your spouse is uncomfortable or inexperienced with handling financial matters
- you own property in more than one jurisdiction
- you own special property, such as artwork or collectibles
- you own certain property such as a qualified fishing or farming property or qualified small business shares that may be eligible for a capital gains exemption
- you own a business.

Make a will and review it periodically as well as when major life events occur

Passing a family-owned business to the next generation can be a very important challenge. Some of the objectives to be considered include:

- Who is going to control the business?
- Who is going to participate in its future growth?
- Who is going to receive its income?
- What provisions are to be made for the surviving spouse who was not active in the business?

These topics will be further discussed in this section, but it is important that you consult with your Chartered Professional Accountant to discuss your estate plan.

2.2 Making a Testamentary Will

A will is a legal document which expresses your desires as to whom you wish to benefit from your estate, how much you want to give them and exactly how you wish your estate to be distributed. You may also wish to name guardians for your minor children in your will. You can pass property to your beneficiaries outside of a will. Some of the reasons to do this include the ability to reduce probate fees/taxes; defer tax liability on some *inter vivos* transfers (which we will discuss in the trusts section); and to keep as much of your affairs private as possible which does not happen when a will is probated. It is also possible to own property with another person, in joint ownership of a property, which will allow the property of a deceased joint owner to pass outside your will to the surviving owners (note that "joint ownership" does not exist under Quebec law). The disadvantage to these alternatives is that you give up some or all control of the property as opposed to maintaining control and benefits of the property if your assets are bequeathed in your will.

Everyone should have a testamentary will to provide for how you wish your estate to be divided upon your death. As in the case of the documents previously mentioned, a will should be drafted by a lawyer familiar with the laws of the province in which the person making the will resides or real property is located. If there is no will, the applicable succession legislation governs. The estate is distributed in accordance to a prescribed list of next of kin, which may not coincide with your wishes.

Matters to consider when drafting a will include:

- minor children and/or children from a previous marriage
- beneficiaries with special needs
- ownership of significant assets and the desire to minimize probate taxes
- goals such as controlling the management and distribution of property after death
- the chance that the will may be contested after death
- desire for a specific asset (such as a coin or stamp collection) to go to a certain person
- desire that heirs be disinherited
- charitable donations.

Despite the existence of a will, a spouse is entitled to a minimum amount of the estate in many jurisdictions, called a preferential share, if the deceased did not adequately provide for them under the will and an election is made in a timely manner.

Wills of a husband and wife that name each other as the beneficiary often include a survivorship clause in the event that they die in a common accident or one spouse dies shortly after the other. The clause will provide that if the beneficiary does not survive for a reasonable short period of time, such as 30 days, then each estate is distributed to other beneficiaries.

Probate makes your will a public document

What if there is no will? In that case, the succession legislation of the applicable province or territory governs the administration of the estate and it is distributed in accordance to the legislative scheme of the *Act*. In most jurisdictions, the spouse is entitled to a preferential share and then the children are entitled to a portion if there is more than the preferential share in the estate.

Disinheritance involves stating that someone is not entitled to inherit even though they would otherwise be a rightful heir. Typically heirs include a husband or wife, children and possibly other relatives. Remember too that leaving a child out of a will may not succeed in disinheriting that child. All jurisdictions provide for a claim for support for dependants that can prove that they are entitled to financial assistance from the estate. Consult an experienced estate planning lawyer.

2.2.1 How to Make a Will

Although not recommended, a will may legally be prepared without a lawyer. It may be drafted with the help of a guidebook or software, or by purchasing a prescribed form in an office supply store or online. To make a legally valid will, you must be at least of the age of majority or older and of sound mind. The age of majority is 18 in Alberta, Manitoba, Ontario, Prince Edward Island, Quebec, and Saskatchewan and 19 in British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, and Yukon. There may be exceptions where the minor is married or contemplating marriage, a member of the armed forces or a seaman, or where property in a will has little value. These exceptions vary by jurisdiction, so legal advice is recommended.

A person must be of sound mind, that is, aware of the scope of their property, all of the potential beneficiaries who would normally be included in the will and how being included or excluded would affect them. Also, the will must be in writing and meet the legislative requirements of the applicable jurisdiction for formal execution, reflect your true wishes and be made without undue influence. Proper execution includes signing and acknowledging the will in the presence of adult witnesses who will not benefit by anything under the will. While drafting a will on your own will cost less, nuances and potential changes in federal and provincial law should at least cause you to consider utilizing the services of a lawyer who specializes in estate-planning matters.

The required formalities will depend on the applicable jurisdiction and the type of will that is made. Types of wills include conventional wills (formal), holographic wills (informal and handwritten) and international wills. Legal advice is recommended when making a will to ensure that it reflects your true desires and your expectations as to how it is carried out will be met.

2.2.2 Multiple Wills

You can have more than one will. The courts have accepted the use of multiple wills in Canada to reduce probate fees/taxes. In Ontario, this fee or tax is called estate administration tax. You may have one will that will be subject to probate and another will to pass property that is not subject to probate. Clients may also have created trusts, one of the benefits of which is to pass property outside of the estate. See Section 2.4.5 of this *Guide*.

2.2.3 Probate

A will does not necessarily have to be probated. It is usually done to assure a third party that the executors have authority to deal with the estate, that the property will be free of any beneficiary claims and that they are getting good title. Financial institutions will often require a will to be probated before they transfer any assets to the executors to ensure that they will not be liable in case the executor gives any of the property to the wrong person.

The probate process can take a varied amount of time depending on the size of the estate, the location of beneficiaries, any contests made to the will and applicable law. An Affidavit of Witness may be required for a probate application. This may have been executed by a witness at the time you signed your will. If not, they may need to be located in order to execute an Affidavit of Witness if a probate application is being made. Probate fees/taxes are generally assessed on the value of the estate that is being passed through the will and they vary across the country. The fees/tax may change, so talk to your Chartered Professional Accountant.

Jurisdiction	Value of Estate	Probate Fee/Tax
Alberta	Less than or equal to $10,000	$35
	More than $10,000 and less than or equal to $25,000	$135
	More than $25,000 and less than or equal to $125,000	$275
	More than $125,000 and less than or equal to $250,000	$400
	More than $250,000	$525
British Columbia	Less than or equal to $25,000	Nil
	More than $25,000 and less than or equal to $50,000	$6 for every $1,000 rounded up
	More than $50,000	$150 plus $14 for every $1,000 rounded up
Manitoba	Less than or equal to $10,000	$70
	More than $10,000	$70 plus $7 for every $1,000 rounded up

Jurisdiction	Value of Estate	Probate Fee/Tax
New Brunswick	Less than or equal to $5,000	$25
	More than $5,000 and less than or equal to $10,000	$50
	More than $10,000 and less than or equal to $15,000	$75
	More than $15,000 and less than or equal to $20,000	$100
	More than $20,000	$100 plus $5 for every $1,000 rounded up
Newfoundland and Labrador	Less than or equal to $1,000	$60
	More than $1,000	$60 plus $0.60 for each additional $100 over $1,000
Northwest Territories	Less than or equal to $10,000	$25
	More than $10,000 and less than or equal to $25,000	$100
	More than $25,000 and less than or equal to $125,000	$200
	More than $125,000 and less than or equal to $250,000	$300
	More than $250,000	$400
Nova Scotia	Less than or equal to $10,000	$85.60
	More than $10,000 and less than or equal to $25,000	$215.20
	More than $25,000 and less than or equal to $50,000	$358.15
	More than $50,000 and less than or equal to $100,000	$1,002.65
	More than $100,000	$1,002.65 plus $16.95 for every $1,000 rounded up
Nunavut	Less than or equal to $10,000	$25
	More than $10,000 and less than or equal to $25,000	$100

Jurisdiction	Value of Estate	Probate Fee/Tax
	More than $25,000 and less than or equal to $125,000	$200
	More than $125,000 and less than or equal to $250,000	$300
	More than $250,000	$400
Ontario	Less than $1,000	Nil
	More than $1,000 and less than or equal to $50,000	$5 for every $1,000 rounded up
	More than $50,000	$250 plus $15 for every $1,000 rounded up
Prince Edward Island	Less than or equal to $10,000	$50
	More than $10,000 and less than or equal to $25,000	$100
	More than $25,000 and less than or equal to $50,000	$200
	More than $50,000 and less than or equal to $100,000	$400
	More than $100,000	$400 plus $4 for every $1,000 rounded up
Quebec	N/A	Nil
Saskatchewan	All estates	$7 for every $1,000 rounded up
Yukon	Less than or equal to $25,000	Nil
	More than $25,000	$140

This list is not exhaustive and does not include miscellaneous fees like photocopying or other fees.

Where there is no will, probate is also required for the court to appoint a representative, usually called an administrator (estate trustee in Ontario).

Probate also makes the will a public document. The estate pays the probate costs, thereby reducing the amount of money going to the heirs.

2.2.4 Choosing Beneficiaries

A Chartered Professional Accountant can help you plan for the financial needs of your dependants and a lawyer can draft the proper estate-planning documents to ensure your wishes are followed. When choosing beneficiaries those who may need to be considered include:

Spouse: In the event of your illness or death, it is important to ensure that a spouse continues to have access to your shared assets. To ensure proper titling of ownership, individuals are encouraged to seek legal advice.

Common-law partner: In many jurisdictions across Canada, many rights enjoyed by a spouse have been extended to a common-law partner, although the rights vary among the jurisdictions and applicable legislation. In Quebec, the *Civil Code* does not recognize common-law partners for the purpose of support among other matrimonial rights. There are also various treatments of matrimonial property across the other jurisdictions where property rights are not usually extended to common-law partners, although there are exceptions. In succession law, most provinces do not extend the same rights of married spouses to common-law partners where the other spouse/common-law partner dies intestate, although there are exceptions. Consult an estate lawyer.

The *Income Tax Act* defines for tax purposes a common-law partner as either a parent with the other partner of a child or a person at a particular time who has cohabited with the other person in a conjugal relationship for a previous 12-month continuous period. Legal advice is recommended.

Former spouse/common-law partner: Your advisor can help you arrange an automatic transfer arrangement to ensure spousal support continues during your illness. Spousal support generally ends upon the death of the payor spouse/common-law partner although it is possible to provide for a spouse/common-law partner if desired. They may also have a claim from the estate as a dependant if they are not adequately provided for in the will. Consult your advisor.

Same-sex partner: In Canada, same-sex partners are entitled to many of the same rights and benefits as common-law partners in Canada, including recognition under the *Income Tax Act*, *Canada Pension Plan* and other statutes. The federal *Civil Marriage Act* was amended in 2005 to permit same-sex couples to marry. The *Act* was subsequently amended in 2013 to permit a Canadian court to grant a divorce to non-resident spouses where divorce is not available to them because their home jurisdiction does not recognize their marriage as being valid.

Child support: The death of a payor may be addressed in a separation or similar agreement where the parties agree to designate a child as a beneficiary under an insurance policy to provide child support payments after death. A taxable monthly orphan benefit is provided through CPP/QPP to your minor children if an application is made in writing on a timely basis and you are a qualified CPP contributor. Again, a claim as a dependant may be made if a minor child is not adequately provided for in your will. Since each family's situation is different, it's best to seek legal advice.

Children with special needs: A child, even a grown one, with physical or mental disabilities can require special planning.

Other dependants: You will likely have to make special arrangements if you wish to provide for your parents or other family members during an illness or after your death.

A will helps you express your wishes as to how you would like your estate divided up and distributed. Generally it is your choice to benefit someone or leave them out of your will. However, there are exceptions.

Legislation across the country provides that dependants can apply for a court order for support or maintenance if they have not been adequately provided for in the will and can demonstrate they were dependent on the deceased. Legislation generally applies to spouses and minor children although the definitions for each and the applicable test can vary. For example, some jurisdictions include common-law partners. Many provide that a former spouse who was receiving support is considered a dependant. In Quebec, the right exists for a dependant called a creditor of support, who is defined as an eligible heir, legatee or person who did not exercise their right to support prior to the person's death. Time limits apply to make an application. Legal advice is recommended.

As well, legislation generally gives spouses a preferential share of the net estate or the estate's net value, depending on the jurisdiction, if they are not adequately provided for in the will. The definition of spouse varies.

Legislation generally recognizes a deceased's children to include children born out of wedlock as well as adopted children. Consideration should also be given if there are step-children that you wish to include.

Specific gifts to individuals should be clearly identified and the individuals should be specifically named.

Consideration should also be given to whether you wish to make direct beneficiary designations for on certain instruments such as registered retirement savings plans, tax-free savings accounts and insurance policies. If you do so, they will fall outside of your will. Consult your advisor.

2.2.5 Guardianship of Your Children

The guardianship of your children is an important matter to consider during an incapacitating illness or after your death. The surviving parent will be sole guardian where the other parent dies if they are both custodial parents. However, guardianship will not automatically pass to the other parent if they did not already have custodial rights. You can name a guardian in your will to care for your children. However, the court may appoint another person if they believe that to do so would be in the best interest of the child.

Choosing the person who will care for your child if you are unable to do so is an extremely important decision. Some issues to consider:

- Who loves and cares about the children?
- Who do the children love and respect?
- Who do you trust?
- Who is financially and emotionally able to take on added responsibilities?
- Who is willing to take on the guardianship responsibility?
- Who is honest and dependable?

Consider also:

- Is it best to name the guardian in your will?
- Talk to the person to ensure that they are willing and able.
- Some parents name one guardian to care for children and a different guardian to oversee the children's assets and finances.
- Single parents may choose to name the child's other parent, even if they do not have legal custody.
- The court has the final authority and will look at all relevant factors in determining what is in the best interests of the child.

Talk with a prospective guardian about:

- The responsibility they are taking on in agreeing to care for your children.
- Your wishes for their upbringing, including your religion, the education you would like them to receive, and other important matters.
- Financial resources that will be available, including life insurance, disability insurance, savings, investments, etc.

27% (1.9 million) of Canadians aged 15 to 29 provided care in 2012 to a friend or family member with a disability, chronic health condition or aging issue.
Statistics Canada: *The Daily*, September 24, 2014

A Chartered Professional Accountant can help you plan for the financial needs of your dependants, and a lawyer can draft the proper estate-planning documents to ensure your wishes are followed.

2.2.6 Personal Representative

Choosing a personal representative (executor, estate trustee or liquidator, depending on the jurisdiction) to administer your will is a very important decision. Often times an adult child is chosen. An alternative should be chosen in case your first choice is not able or willing to carry out the duties.

Choosing who will administer your will (the executor in all jurisdictions except Ontario (estate trustee) and Quebec (liquidator)) is an important aspect in making a will. For the purpose of this discussion, the term “personal representative” will be used for the person administering your estate.

The person who makes a will is called the testator. When making your will, choose a person to be your personal representative whom you know will carry out your wishes. This person does not need to be a family member or next of kin. Ask yourself who is the best person you know who is capable of carrying out the duties as required, who is someone you trust implicitly and who is someone who will carry out your desired wishes. Acting as a personal representative involves great responsibility in dealing with your assets, meeting deadlines for carrying out certain tasks as well

Life expectancy in Canada for women at birth was 83.60 years and for men was 79.33. For women at age 65, life expectancy was 21.73 years and for men as 18.82 years.
Statistics Canada: *Life Tables, Canada, Provinces and Territories*, 2009 to 2011

as meeting income tax filing obligations. While it is possible to make a valid will on your own, legal advice is recommended to ensure that your desires are properly reflected in your will.

2.2.7 Leaving the Choice to the Government

A person who does not plan for the distribution of their estate and dies without a will is said to have died intestate (without a will). The probate court will appoint a next of kin to administer your estate as dictated by the applicable succession legislation. If there is no next of kin, the public trustee, public guardian and trustee or other public office will be appointed to administer your estate for a fee. The person appointed by the court may not be the person you would choose and by not having a will you lose control of both who administers your estate and who receives the assets under your will.

Generally the representative of a deceased who dies intestate and is appointed by the court is called the administrator and the representative of a deceased who is appointed under the will is called the executor. Legislation across the country regarding succession law is particular to its jurisdiction and terminology sometimes varies. For the purpose of this *Guide*, as discussed earlier, the administrator or executor will be called the "personal representative."

2.3 Planning for Your Assets and Your Property

Take inventory of what you own. You can either be the sole owner, own something jointly with your spouse or another person, or own property with another person as a tenant in common. If you are the sole owner, you can generally deal with your assets as you choose. Joint ownership gives the survivor(s) rights to the property of another joint owner when they die (note that "joint ownership" does not exist under Quebec law). If you are a tenant in common, you own a certain percentage of the property. This interest can be passed to your heirs at death. You may also have a beneficial interest in a trust. If the interest only exists while you are alive, this is called a life interest.

Assets that you own alone can be bequeathed to your heirs as you express in your will.

2.3.1 Assets Owned Jointly with a Spouse

Assets that are owned jointly between spouses pass full title to the surviving spouse.

Do you know how your assets are owned?

2.3.2 Family Property

Provincial legislation generally recognizes income and property gained during a marriage as family or community property. Property rights in many provinces apply to married spouses only but may also apply to common-law partners. A "spouse" as defined in the applicable legislation in many jurisdictions can take a preferential share where the testator (the person making the will) does not provide for a minimum amount under the will. Time limits apply for making this election. Check with your lawyer on whether your will can be thwarted by the applicable legislation.

2.3.3 Assets Held in a Trust

Assets titled by a trust generally are not included in the probate process and therefore go directly to the intended recipients on whatever schedule the trust directs.

Trusts have the following advantages:

- generally avoid probate (court supervision)
- maintain privacy (compared to probated wills, which are recorded with the court and open to the public)
- provide for control of assets both during life and after death
- may provide tax benefits
- can be structured to take care of your family after your death.

Beneficiary choices should be reviewed regularly

Are your assets titled to produce the outcome you want?

See the section on Trusts (Section 2.4.5) for further details on different types of trusts that can be used to pass property outside of a will.

2.4 Passing Assets Outside of the Estate

You may wish to pass assets outside of your estate, which can be done in several ways. As mentioned above, joint ownership gives joint owners the right of survivorship. There could be difficulties associated with joint ownership because lawsuits, liens or divorce (all of which could have negative income tax consequences) of the other owner(s) can affect the interests of all owners. (Note that "joint ownership" does not exist under Quebec law.)

Assets that are titled in your name only but have a named beneficiary (that is, left to someone other than your estate) will be distributed directly to that beneficiary. Examples include Registered Retirement Savings Plans, Registered Retirement Income Funds, Registered Pension Plans, Tax-free Savings Accounts and life insurance policies that designate the beneficiary or beneficiaries. You should review your beneficiary choices regularly to ensure they are up-to-date, particularly if you have recently been widowed or divorced.

Many individuals name their spouse or other family members as beneficiaries of their retirement plans. These retirement plans may consist of Registered Retirement Pension Plans, Registered Retirement Income Funds or other tax qualified or pension benefits. Qualified beneficiaries can receive amounts on a tax deferred basis if they are transferred to their respective plan or fund and elections are filed on a timely basis. Seek the assistance of a Chartered Professional Accountant and estate planning lawyer.

2.4.1 Registered Retirement Savings Plans

If you have a Registered Retirement Savings Plan (RRSP), it has either begun paying retirement benefits (matured) or has not begun paying retirement benefits (unmatured).

2.4.1.1 Unmatured RRSP

You are called the annuitant of an unmatured RRSP if you are continuing to make contributions to your RRSP. When an annuitant dies, they are deemed to receive into their income in the year of death an amount equal to the RRSP fair market value immediately before death, subject to the following exceptions. A spouse/common-law partner who is directly designated as the sole beneficiary in the annuitant's RRSP can direct the RRSP issuer to transfer the property on or before the calendar taxation year-end of the year following the year of the annuitant's death into their own eligible RRSP or RRIF. The amount is then included in their income rather than the annuitant's. Where the previous situation does not apply and the RRSP property qualifies as a refund of premiums to a qualified beneficiary, the deceased annuitant's legal representative can claim a deduction for the amount of the RRSP property and it is included in the income of the qualified beneficiary. On a tax-deferred basis, a qualified beneficiary can transfer the refund of premiums to an eligible RRSP or RRIF within 60 days after the calendar year-end of the year they received the funds.

2.4.1.2 Matured RRSP

You are called the annuitant of a matured RRSP if you are not making contributions to your RRSP and have made arrangements to receive a retirement income from your accumulated investment. When an annuitant dies, they are deemed to have received the fair market value of the remaining RRSP payments immediately before death. This amount is included in the annuitant's income in the year of death except in the following situations:

- The plan continues where the annuitant named their spouse/common-law partner directly on the RRSP contract as the sole beneficiary.
- Where another beneficiary is named with the spouse/common-law partner, the portion attributed to the spouse/common-law partner continues under the plan and the fair market value of the other portion is included in the deceased's income in the year of death.
- If there is no direct designation and the spouse/common-law partner is named under the will as the sole beneficiary or is named as the sole beneficiary of the estate, then the spouse/common-law partner and the legal representative can jointly elect by writing a letter to the CRA that the spouse/common-law partner intends to become the successor annuitant under the RRSP. The RRSP annuity payor should also be given a copy of the letter.

The legal representative can also reduce the amount that is included in the deceased annuitant's income in the year of death where a financially dependent child or grandchild is qualified to receive an amount as a refund of premiums. The recipient can defer the tax payable on the RRSP amount received by transferring the property to a qualified fund or plan or to a registered issuer to purchase a qualified annuity within 60 days after the calendar year-end of receiving the refund of premiums.

The *Income Tax Act* recognizes the inequity where the post death amount that is distributed is less than the fair market value of the investment immediately before death. The decrease in value can be carried back and applied against the amount of the income inclusion in the year of death.

Similar rules generally apply for PRPP members and their qualifying survivors and for SPP participants and their qualifying beneficiaries. Consult your Chartered Professional Accountant.

2.4.2 Registered Retirement Income Funds

You cannot continue to contribute to an RRSP after December 31 of the year you turn 71 years old. You must begin to make withdrawals the following year. You can transfer a matured RRSP to a Registered Retirement Income Fund

(RRIF) so that you are only taxed up to the actual amount withdrawn rather than collapsing the RRSP and being taxed on the whole amount of the RRSP. A RRIF can continue for the rest of your life.

When the annuitant of a RRIF dies, they are deemed to receive the fair market value of the amount immediately before death except in the following situations.

The RRIF continues where the annuitant named their spouse/common-law partner directly on the RRIF contract or in their will as the successor annuitant and the payments are taxable as they are received by the successor annuitant. Or, the spouse/common-law partner is named as the sole beneficiary in the RRIF contract and directs the RRIF administrator by the end of the calendar year-end following the year the annuitant died to transfer all the RRIF property to an eligible plan or fund. The legal representative can also reduce the amount that is included in the deceased annuitant's income in the year of death where a qualified beneficiary receives a designated benefit. The beneficiary can defer the tax payable on the RRIF property received by transferring the property to a qualified fund or plan or to a registered issuer to purchase a qualified annuity within 60 days after the calendar year-end of receiving the RRSP property. RRIF property that is payable to the estate may qualify as a designated benefit where a qualified beneficiary is a beneficiary of the estate and the personal representative and the beneficiary jointly elect in prescribed form that the amount is designated as a designated benefit.

Similar rules generally apply for PRPP members and their qualifying survivors and for SPP participants and their qualifying beneficiaries. Consult your Chartered Professional Accountant.

2.4.3 Rollovers to a Registered Disability Savings Plan

A tax-deferred transfer (rollover) of certain RRSP, RRIF, RPP, PRPP or SPP amounts to a deceased's financially dependent child's or grandchild's Registered Disability Savings Plan (RDSP) may be available. A child is considered eligible if, because of their infirmity, they were financially dependent on the deceased at the time of their death. The proceeds will be considered eligible if they are a refund of premiums from an RRSP, eligible RRIF amount, RPP, PRPP lump sum payment or eligible SPP amount that the eligible child or grandchild receives as a consequence of their parent's or grandparent's death. A specified RDSP payment can be paid to the child's or grandchild's RDSP and must be designated by the eligible child and the RDSP holder as a specified RDSP payment when the payment is made. The RDSP is included in the child's income for the taxation year when the payment is made in the year or within 60 days of that taxation year. A corresponding deduction equal to the eligible proceeds that were included in computing their taxable income for the year will be permitted. The specified RDSP payment amount will be included in the child's income when it is withdrawn.

When the beneficiary of an RDSP dies, all Canada Disability Savings Grants (CDSGs), Canada Disability Savings Bond (CDSBs) and related investments that were made in the 10 years prior to the beneficiary's death must be repaid. The amount in excess of original contributions is taxable and is included either in the income of the beneficiary in the year of death or the estate. The beneficiary of a RDSP is the only person who is entitled to the proceeds from the plan. The savings and interest earned in the plan are transferred to the beneficiary's estate. Often a parent or legal representative will be the holder of the RDSP for the beneficiary. If you are a holder, you may consider naming your spouse or common-law partner as a joint holder so that in the event of your death the plan can continue uninterrupted.

2.4.4 Life Insurance

There are various types of life insurance policies that are designed to meet different needs. The following discussion highlights the basic products. You should get professional advice to ensure that the policy you choose meets your individual desires.

One of the most common reasons for buying life insurance is to replace the loss of income that would occur in the event of your death. When you die and your pay cheques stop, your family may be left with extremely limited resources. Proceeds from a life insurance policy make cash available to support your family upon your death.

Basically there are two types of life insurance policies—term and permanent.

The Canada Life and Health Insurance Association offers a *Guide to Life Insurance* which can be accessed at **www.clhia.ca** under the section for Consumer Information under Glossary, Guides and Information Booklets.

2.4.4.1 Term

Previous employee benefits should be investigated

Term policies provide life insurance protection for a specific period of time or to a specified age. If a policy holder dies during the coverage period, the beneficiary receives the policy death benefit. Premiums generally stay the same during the term of the policy but increase upon renewal of the policy. For example, premiums would rise at five year intervals on a five-year renewal policy.

2.4.4.2 Permanent

Term to 100: This type of policy is usually considered a permanent plan but has no or very small cash value after a length of time and does not pay dividends. It also may have limited non-forfeiture values. Non-forfeiture options give policy holders choices if they stop paying premiums. Premiums tend to be lower than for a whole life policy.

Whole life: With this policy, you generally make equal premium payments for life. The death benefit and cash value are predetermined and guaranteed. The death benefit may be enhanced in participating policies that pay dividends, although not guaranteed. The policy owner's only action after purchase of the policy is to pay the fixed premium.

Universal life: This is a type of interest-rate sensitive policy where interest rates can be adjusted over time. Premiums could decrease where interest rates increase and conversely premiums could increase where interest rates decrease. There are two parts to a universal life policy — an investment account and life insurance. Whether earnings on the investment account are guaranteed will depend on the chosen investment. Income earned in the investment account is generally exempt from income tax. A policy holder has flexibility on the amount of premiums and death benefit, subject to limitations.

Variable life: Usually, premiums are guaranteed. The cash values fluctuate depending on how an investment fund or other index performs. Death benefits may be either guaranteed or be dependent on the fund's performance, but no less than a guaranteed minimum.

Group life insurance is often available to employees through their employers or unions.

Once you have reviewed all beneficiary designations on insurance policies to ensure they are current and appropriate, there are other questions to consider.

For instance, are life insurance benefits taxable? Benefits are generally not taxable to a beneficiary, however, there are situations where tax consequences arise. For example, earned interest on accumulated dividends that are left on deposit is taxable.

Is anyone dependent on your income?

How can life insurance be used to cover expenses related to a terminal illness? It is best to consult a financial advisor before selling or surrendering part or all of a life insurance policy. Before taking any steps, consider your dependants' needs for the benefit after your death, and remember: If a policy has accumulated a cash value over the years, you can borrow against it, but borrowed amounts must be paid back. If they are not, the amounts plus interest are subtracted from the death benefit.

If there is an accelerated benefits or living benefits rider, it can be used when a life insured is suffering from an ongoing terminal illness. The insurance company usually pays a portion of the benefit to the patient, subject to a maximum limit.

2.4.4.3 Beneficiaries

The beneficiary usually can choose how the death benefit of a life insurance policy will be paid and should review the policy for the available options.

Don't let insurance premiums lapse. Make sure you make arrangements to pay your premium.

Caution: It is extremely important to consider the options of any distributions and their tax implications. Before making any decisions on these options, seek the assistance of a competent advisor. It is important, also, that the option you select is appropriate for your family situation. Evaluate options in light of what the family's needs and objectives are going to be. As a result, it might be prudent to delay making a decision for a period of time.

When making a claim, the insurance company will need a copy of the death certificate, proof of the beneficiary's identity and will want to know that the beneficiary understands the available payment options. If a life insurance policy cannot be found, but a beneficiary believes there is one, they can contact the Canadian Life and Health Insurance Association at www.clhia.ca who will notify all member life insurance companies of the deceased. If one of the member insurance companies has a policy, they will contact the beneficiary.

2.4.5 Trusts

A trust is a legal relationship in which one party, the trustee, has legal ownership of assets that have been transferred to the trust by the person (settlor) who established the trust, which assets are to be managed for the benefit of the beneficiaries of the trust.

Trustees must manage the trust to a certain standard of care and duties. Their powers and other administrative matters are governed by the trust document, as well as applicable trust legislation. There are also *Income Tax Act* provisions that the trustee must adhere to in administering a trust.

Trusts of various kinds are frequently used in personal financial planning and in estate planning. Clients with sizeable estates are likely to have established various trusts either during their lifetime or to become effective upon their death.

2.4.5.1 Some basic terminology

- **testamentary trust** — A trust usually established in a person's will and becoming active upon death of the testator.
- **inter vivos trust** — A trust established during a settlor's lifetime.
- **revocable trust** — A trust that can be terminated or modified by the settlor.
- **irrevocable trust** — A trust that cannot be modified by the settlor for any reason.

Testamentary Trust

A testamentary trust is usually created at the time of a person's death and is found in the will. Testamentary trusts are taxed at graduated tax rates rather than at the highest marginal rate, as generally is the case of *inter vivos* trusts until the end of 2015. As of January 1, 2016, testamentary trusts are only eligible for graduated tax rates up to 36 months after the individual dies where certain conditions are met. For income tax purposes these testamentary trusts are called "graduated rate estates." There is also an exception to be taxed at graduated tax rates for testamentary trusts that are qualified disability trusts as long as prescribed conditions are met. Consult your Chartered Professional Accountant.

Inter vivos Trust

An *inter vivos* trust is created by a person while they are alive. A transfer of property to a trust is considered a taxable event which must be reported by the individual on their tax return. The transfer may result in a capital gain, capital loss, recapture or terminal loss, depending on the type of property transferred and whether or not it has been depreciated. Individuals should be aware that if they settle a trust for a related individual who is under 18, paid out of the trust will be taxed to the individual who settled the trust. Capital gains will be taxed to the related minor.

Income that is retained by the trust will be taxed to the trust. Income earned in an *inter vivos* trust is taxed at the highest federal marginal rate. *Inter vivos* trusts have a calendar year-end and are generally required to file a trust return within 90 days of that year-end.

Beware of the tax on split income, known as "kiddie tax," which taxes at the highest marginal rate (29% federally for 2015 plus provincially) certain income, including rental income, and certain taxable dividend income that is distributed through a trust or partnership to a related beneficiary under the age of 18 at the end of the calendar year. There are also other types of income allocated to a related beneficiary that can be caught by the kiddie tax. Consult your Chartered Professional Accountant.

For 2016 and subsequent taxation years, the federal government has proposed a new tax bracket (33%) for high income earners over a certain threshold amount ($200,000 in 2016), which will be indexed annually for inflation. This new highest marginal rate, among other applications, will also apply to tax on split income. Consult your Chartered Professional Accountant on how these changes may affect you.

2.4.5.2 Deemed 21-year disposition rule

The *Income Tax Act* requires most personal trusts are deemed to dispose of their property once every 21 years. Otherwise, a trust could accumulate property for generations without paying tax. A trust's tax liability may be paid over 10 years in equal amounts where certain conditions are met. Consult your Chartered Professional Accountant.

2.4.5.3 Preferred beneficiary election

A preferred beneficiary election is a provision under the *Income Tax Act* which permits income that is earned and accumulated in an *inter vivos* trust to be reported in the beneficiary's income for the year, which can result in significant tax savings. An *inter vivos* trust is taxed on its income at the highest marginal rate, 29% for 2015. An individual is taxed on their income at the federal graduated tax rates which range from 15%, 22%, 26% to 29% federally for 2015, plus provincial taxes, with the tax rate depending on the amount of income for the year being reported by the individual. If the individual is in the lowest tax bracket, the income reported by the *inter vivos* trust will be taxed at 15% instead of 29% for 2015 federally plus provincial taxes.

Effective for 2016 and subsequent tax years, the federal government proposes to add another tax bracket and reduce the rate for the second income tax bracket for a range of 15%, 20.5%, 26%, 29% and 33%.

A preferred beneficiary must be eligible for the disability tax credit and may be any of the settlor, the settlor's former or current spouse/common-law partner, their child, grandchild or great-grandchild.

An election must be filed for each tax year that the election applies. The election must include a statement that makes the election for a specific taxation year, must designate the accumulating income that is the subject of the election, must state that the trustee and beneficiary are authorized to make the election and must be signed by both the trustee and preferred beneficiary. A statement must also be included that shows how the preferred beneficiary's share of the accumulating income is calculated. The calculation must be in accordance with the *Act*. Other information regarding the applicable trust provisions and their administration must also be included.

2.4.5.4 Spousal trusts and similar trusts

The *Income Tax Act* provides for individuals to transfer property to certain trusts on a tax-deferred basis if prescribed conditions are met. These trusts include a spousal/common-law partner trust, joint spousal/common-law partner trust, alter-ego trust and self-interest trust.

A spousal or alter-ego trust can help avoid probate

These trusts may be used for several purposes such as for asset protection, estate freezes or to pass property outside of the estate. Property that is passed outside of the estate is not subject to probate fees/tax. These trusts can also hold the principal residence if conditions set out in the *Income Tax Act* are met.

These trusts are all personal trusts and will not meet the criteria required for each type of trust if consideration is received. The rollover will also be denied where there is reasonable belief that the transferor is about to emigrate and become a non-resident. A person is deemed to dispose of all of their property when they become a non-resident and that property becomes subject to tax on capital gains.

2.4.5.5 Spousal/common-law partner trust

A spousal/common-law partner trust is created by a spouse/common-law partner either during their life or upon their death. The creator or settlor can transfer property into the trust on a tax-deferred (rollover) basis if no consideration is received. A spousal/common-law partner trust can entitle only the beneficiary spouse/common-law partner to receive the income of the trust that arises before their death and only the beneficiary spouse may receive or have use of any income or capital of the trust before their death. In the case of a testamentary trust, the trust property must vest in the trust within 36 months of its creation. There are also Canadian residency requirements to be met. Consult your Chartered Professional Accountant and lawyer to ensure that this type of trust is properly created and maintained.

2.4.5.6 Joint spouse/common-law partner trusts

A joint spouse/common-law partner trust is created by an individual, while alive, who is at least 65 years old. The creator or settlor can transfer property into the trust on a tax-deferred (rollover) basis if no consideration is received. The individual who created the trust and their spouse/common-law partner are the only designated beneficiaries and are the only ones entitled to receive any of the trust capital or any income that the trust earns during their lifetimes. No other person is entitled to any of the capital or income of the trust before the later of the spouses dies. The 21-year deemed disposition rule does not apply during the lifetimes of the spouses/common-law partners. There is a deemed disposition at fair market value on the death of the later spouse and every 21 years thereafter.

2.4.5.7 Alter-ego trusts

An alter-ego trust is created by an individual, while alive, who is at least 65 years old. The creator or settlor can transfer property into the trust on a tax-deferred (rollover) basis if no consideration is received. The individual is the designated beneficiary and is the only beneficiary entitled to receive any of the income earned by, or capital of, the trust during the individual's lifetime. The 21-year deemed disposition rule does not apply during the individual's lifetime. There is a deemed disposition at fair market value on the death of the individual and every 21 years thereafter.

2.4.5.8 Self-benefit trust

A self-benefit trust is created by an individual while they are alive. There is no age restriction. The creator or settlor can transfer property into the trust on a tax-deferred (rollover) basis if no consideration is received. The individual who created the trust must be the only beneficiary entitled to receive all of the trust capital and all of the income that the trust earns during their lifetime. Another person or partnership cannot have any absolute or contingent beneficial interest in the trust. The 21-year deemed disposition rule at fair market value applies during the individual's lifetime.

2.4.5.9 Taxation of personal trusts on death

As of January 1, 2016 new tax rules may affect the intended consequences of an estate plan that uses any of these trusts. Professional advice is recommended.

2.5 Business Succession

If you own a business, it is important to give some thought to who will inherit and run it after your death.

Your choice of estate-planning tools used to transfer a business will often depend on whether you plan to retire from the business or keep it until your death. Business succession planning generally considers both the continuity of the business and the minimization of adverse tax consequences. As part of the process, you should consult a Chartered Professional Accountant and an estate-planning lawyer.

Here are some questions to ask yourself:

- Who do you want to succeed you in your business? (This could be a family member, employee, an unknown and unrelated third party buyer, or you may consider that merging with a competitor would be the best option.)
- Do you want the transition to be immediate or would you like to stay involved and have your participation reduced over time?
- Who will train the successor and what will their training period look like?
- Who else is involved in the transition? Are there other managers or employees to consider?
- How will ownership be transferred: to one other owner or several?
- Do you want an asset sale or a share sale?
- What is the value of the assets?
- What is the value of the shares?
- What are the tax and legal implications?
- Are there other financial implications?
- How will the process be monitored?
- What is the timetable for the transition? What does the timeline look like?
- How will disputes be handled?

Selling a business can be more than just the dollars and cents, particularly if you have a family business. There may be emotional ties to the business and each family member may have a different relationship to the business, such as wanting or being active in the business or not wanting anything to do with business operations at all. Consider the perspectives of all involved: yourself, your spouse/partner, your children, and other key people that are affected by this situation. A family business advisor can help you deal with family disputes and emotional issues that may arise. See the Resources section for contact information.

2.5.1 Estate Freezes

Chartered Professional Accountants use the term "estate freeze" to define transactions where an asset of growing value is exchanged for an asset of fixed value. A common example would be where a business owner transfers their common shares that they own in their operating company to a holding company for special shares. Family members and sometimes a family trust will subscribe for the common shares of the holding company. In this way, the growth of the operating company is passed on to other family members. Professional advice is recommended. An estate plan gone wrong could inadvertently attract the anti-avoidance provisions under the *Income Tax Act*, such as the attribution rules or the general anti-avoidance rule, if not properly executed.

2.5.2 Documents

It is important to collect all your documents involving your business. A prudent investor would conduct a due diligence review prior to buying a business. You should be familiar with the elements of a due diligence review which can help you make sure your business is ready for the transition.

Documents for due diligence include:

- organizational chart of the company including all subsidiary companies
- constating documents, such as articles of incorporation or partnership
- list of all jurisdictions where the business operates
- applicable legislation
- articles, by-laws, minute books in the case of a corporation, partnership agreement, business registration or other constating document
- shareholder agreements
- compliance with all regulatory and industry requirements
- loan documents and liens
- ownership and title history of assets
- financial statements and related documents
- deeds of real property and any outstanding issues such as environmental assessments
- insurance
- all contracts involving the business
- employment, independent contractor and union contracts, and related documents
- pending or ongoing litigation documents

- documentation involving environmental matters
- transactions involving related parties
- intellectual property rights, contracts, licences, trade-marks, copyrights, patents and related matters
- other documents particular to your business or industry.

Consult your professional advisors to discuss the options available to you for business succession.

A unanimous shareholders agreement (USA) allows shareholders to choose the corporation's control and management structure. USAs may provide for a restriction on the transfer of shares. The shares of a corporation are less marketable if a USA is in effect. The USA usually provides a method for the shareholder to sell shares or for new shareholders to buy shares. An example of this is a "buy-sell" clause. This allows an existing shareholder to keep control of their interest in a business until a triggering event occurs, such as retirement, divorce, disability, or death. When the triggering event occurs, the buyer is obligated to buy the shareholder's interest at fair market value. The buyer can be a person, a group (such as co-owners), or the business itself. Price and sale terms are prearranged, which eliminates the need for a fire sale if you become ill or die.

2.6 Capital Gains Exemptions

Generally, capital property is taxed at 50% on the capital gains that are realized on disposition of the property. The *Income Tax Act* provides some exemptions as noted below.

2.6.1 $100,000 Capital Gains Exemption (repealed February 23, 1994)

Prior to February 23, 1994, a $100,000 lifetime capital gains exemption was available on the disposition of capital property, for example, a cottage. An election was available at the time of repealing the provision for taxpayers to trigger the capital gains exemption to increase the adjusted cost base of the property for the time of disposition.

2.6.2 Lifetime Capital Gains Deduction

A lifetime capital gains deduction is available when you dispose of qualified farm or fishing property and qualified small business shares. The lifetime capital gains exemption is a prescribed amount and is adjusted annually for inflation. There is an additional exemption for qualified farm or fishing property. The additional exemption for qualified fishing or farm property is the higher of $1 million and the lifetime capital gains exemption ($824,176 in 2016, $813,600 in 2015). For information on current thresholds, see the fact sheets in the CRA newsroom in the website at www.cra-arc.gc.ca/nwsrm/fct-shts. Consult a tax lawyer regarding your available exemption amounts.

2.6.2.1 Qualified small business corporation shares

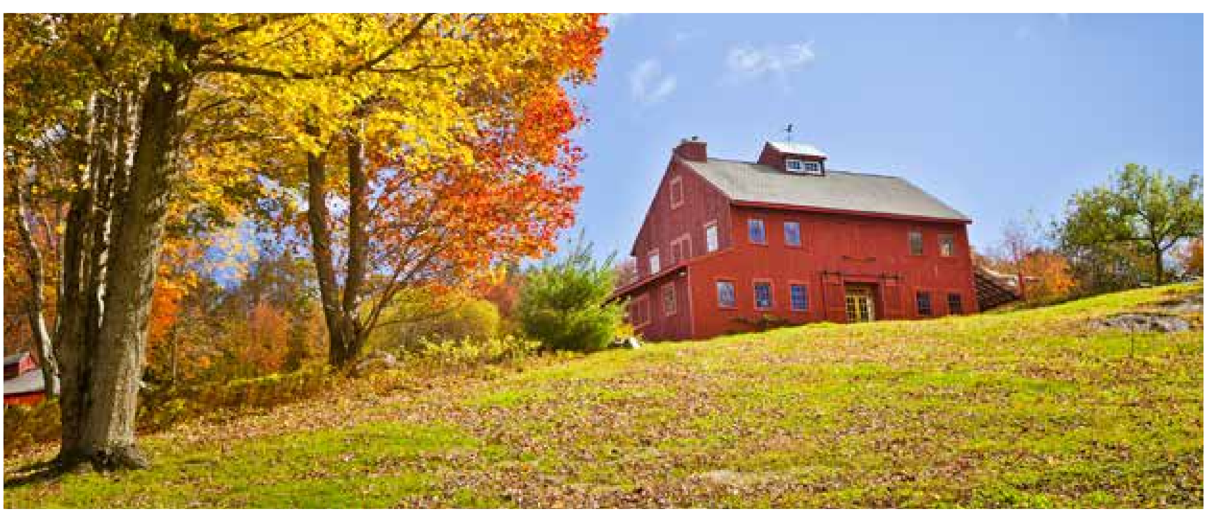
The following conditions must be met:

- the shares are owned by yourself, a related person or your partnership at least 24 months before the sale
- the shares are of a corporation that is a Canadian-controlled private corporation and substantially all assets (90% of the fair market value of its assets) are used primarily in an active business in Canada
- the shareholder must have acquired the shares from an unrelated party at least 24 months (holding period) prior to the sale, and
- during the holding period, at least 50% of the fair market value of the assets must have been used carrying on an active business in Canada.

2.6.2.2 Qualified farm or fishing property

Taxpayers who have a combination of qualified farm and qualified fishing property are entitled to the same tax treatment for intergenerational transfers and the capital gains exemption as taxpayers who have only one or other of these businesses.

Qualified farm or fishing property is owned by you, your spouse/common-law partner or a qualified farm or fishing partnership in which a partnership interest is held by you or your spouse/common-law partner. Property



includes buildings and land, fishing vessels, a family farm or fishing corporation share in the capital stock, a family farm or fishing partnership interest, and eligible capital property, for example, goodwill or an egg quota.

In order for the property to be qualified farm or fishing property for the purpose of using the lifetime capital gains exemption, the property must:

- in the 24 months immediately before the sale, be owned by you, your spouse/common-law partner, child, parent, an eligible personal trust or family farm or fishing partnership, and
- be principally used by any of the above persons or beneficiary of the personal trust or their spouse/common-law partner, child or parent for a minimum of two years in which they were continuously and regularly involved in the business and they have a gross income that exceeds the income in the year from all other sources, or
- have been used by a corporation or partnership for at least 24 months in a farming or fishing business in which an eligible individual has been continuously and regularly involved in the business.

If you own farmland and buildings that were acquired on or before June 17, 1987 and they are used in a farming business by yourself, your spouse/common-law partner, parent or child, your property will qualify if the farming business was carried out either for at least five years during the time that you owned the property or during the year that you dispose of the property.

Consult your financial advisors before transferring family farm or fishing property.

2.6.3 Principal residence exemption

If you have lived in your home since you bought it, any capital gains realized when you sell your house will be tax exempt if certain conditions set out in the *Income Tax Act* are met. Only one principal residence may be designated in a year. A prescribed form must be filed in situations where there are capital gains to report. Consult your Chartered Professional Accountant.

2.7 Charitable Donations

The eligible amount of donations up to $200 that are made by an individual taxpayer during the year to a registered charity can be claimed for a tax credit at the lowest marginal tax rate (15%). The eligible amount of donations that is over $200 can be claimed for a tax credit at the highest marginal tax rate (29% for 2015).

The Federal government has introduced a new tax bracket for high income earners, effective for 2016 and subsequent taxation years. This proposed new tax bracket will tax income over a prescribed threshold at 33% ($200,000 in 2016). This prescribed threshold is subject to annual indexing after 2016. Charitable donations of a taxpayer who earns more than the prescribed threshold can receive a 33% tax credit on donation amounts up to the income amount earned over the prescribed threshold, subject to their annual donation limit. The remaining donation amount over $200 is eligible for a tax credit of 29%.

For example, an individual earns $230,000 in 2016. Their total amount of donations for the year is $40,000. The tax credit is calculated as follows:

First $200 × 15%	=	$30
$30,000 > $200,000 × 33%	=	$9,900
$40,000 – $30,200 = $9,800 × 29%	=	$2,842
		$12,772

Consult your Chartered Professional Accountant to determine how this change may affect you.

A taxpayer can donate up to 75% of their net income in a year. Excess amounts can be carried forward for five years. The eligible amount is the amount used to claim the tax credit that represents the fair market value that exceeds any advantage that the taxpayer may have received. Where an advantage exceeds 80% of the fair market value of the gift, a request must be made to the Minister of Revenue to approve that a gift is intended before a tax credit can be claimed. The 75% is increased to 100% in the year of death and the year preceding death.

As of 2016, estate administrators will have more options available for claiming charitable donation tax credits. Donations to a qualified donee within 36 months of the deceased's death that are made by will or designation are deemed to have been made by the estate in the year of transfer. The amount can be claimed in the year the gift is made, carried back to an earlier estate year or in the year of death or the immediately previous year. The federal government is proposing to adjust these provisions to ensure that donations made after the 36 months but no later than 60 months after the settlor's death from the trust that was their graduated rate estate may still be eligible for the charitable donations tax credit. Consult your Chartered Professional Accountant on how these changes might affect you.

There are special tax rules for donations of property such as cultural property, ecologically sensitive land and certain company shares.

A corporation can also donate up to 75% of its net income annually to registered charities and receive a tax deduction for the donated amount. Excess donations can be carried forward five years.

There are exceptions to the 75% rule when certain property is donated such as cultural property, ecologically sensitive land, and certain securities. Specific requirements of the *Income Tax Act* must be met and may form part of your succession plan. Professional advice is recommended to determine the proper structure for you.

2.7.1 Cultural Property

Cultural property must be assessed at fair market value by the Canadian Cultural Property Export Review Board which is good for two years from the date of determination. Donated cultural property is tax exempt from capital gains tax to the donor. Institutions are required to keep cultural property they receive as donations for 10 years.

2.7.2 Ecologically Sensitive Land

Donations of ecologically sensitive land must be certified by the Minister of Environment under the Ecological Gifts Program in order for the donor to receive the capital gains tax rate of 0%. The land may be donated to a registered charitable organization or registered public foundation. The Minister of Environment will certify the fair market value of the gift, which is valid for two years. Eligible donations that are made under the Ecological Gifts Program can be carried forward up to a maximum of ten years.

2.7.3 Donations of Publicly Traded Securities

Donations of certain publicly traded securities to registered charities, public foundations and private foundations are taxed at the preferred capital gains tax rate of 0%. Donations of the proceeds of the same securities had they been sold prior to donation would be taxed at the capital gains rate of 50%. Special anti-avoidance provisions apply to the donations of shares to private foundations. Employees who donate shares that they have acquired through a stock option within 30 days of the acquisition may also qualify for the preferred capital gains tax rate of 0%. Professional advice is recommended.

2.8 Funeral Wishes

Specifics of a funeral service and whether to be buried or cremated are personal decisions. Reflect on your own beliefs and discuss your choices with your loved ones. Be sure to tell them if you have prepaid for anything and where related documents are stored. Write down your wishes and give copies to your family and your lawyer.

Each province and territory has laws regulating funeral services, burial, and cremation. For example, embalming is not generally required by law in most situations. It may, however, be required when transporting a body out of province or country or when using a common carrier.

In some jurisdictions, a funeral home will usually embalm a body unless instructed otherwise. More information is available through Canada's Office of Consumer Affairs. A list of federal, provincial and territorial offices is available at **www.consumerhandbook.ca/en/contacts/provincial-territorial-offices**. Consumer Affairs also offers information on many products, services and other information (including funerals) where a visitor to the site can create their own Canadian Consumer Handbook at **www.consumerhandbook.ca**.

Best planning tool — tell people what you want

While it may be uncomfortable to talk about, discussing wishes for funeral services and burial or cremation can bring comfort to family members in a time of grief.

2.8.1 Veteran Affairs: The Last Post Fund

Let your family know if you are a veteran who would qualify for The Last Post Fund. Funeral and burial assistance is available when a Veteran dies as a result of an awarded or pensioned disability. Assistance is also available for Veterans who have insufficient funds in their estate. A military style grave marker can also be provided as part of assisted services. A request for assisted service must be made within one year of the Veteran's death. Where Last Post is contacted after the death of a veteran but prior to funeral arrangements being finalized, they may contact the funeral home directly as prescribed by regulation. More information is available by calling 1-800-465-7113 or online at **www.lastpostfund.ca**.

CHAPTER 3
Survivor Issues

The issues of tracking assets and liabilities, adjusting to altered sources of revenue, care of dependants, managing financial affairs, and accessing available resources and benefits may shift, after death, to one or more loved ones. This chapter contains the framework and structure to help accomplish this shift. Surviving family members are frequently thrust into new and unfamiliar roles in managing finances as family members and loved ones seek information, reassurance and security in the months and years after a death.

Some of the issues related to financial affairs facing survivors are immediate or short-term, while others may arise months or even a year or more after a family member's death. The following suggestions are meant only as guidelines to help the bereaved set some priorities when the number of required tasks may seem overwhelming.

The bereaved should avoid:

- thinking about moving from their current home until they can make a decision that is based on reason and not emotion
- spending money impulsively
- caving into pressure to sell or give away the deceased's possessions
- giving or lending money to others without reviewing finances first.

3.1 Other Considerations

Depending on the family dynamics and specifics of the situation, professionals often recommend that major financial changes and decisions be delayed for six to 12 months following the death of a loved one. Although this may not always be practical, you should consider that highly emotional times could skew your ability to make good financial decisions. Survivors, for example, may feel the need to rush to pay all outstanding bills immediately. It should be noted that survivors are not responsible for the individual debts of the deceased. Consequently, personal assets of the survivor and the estate should not be mixed.

When you post an obituary, you are giving public notice not only that someone has died, but also when services will be held. Unfortunately, this can provide an opportunity for criminals to approach survivors and indicate that goods or services have been purchased and payment is due. Publication of the date and time of the funeral service may also be an invitation for criminals to rob the empty home of the deceased. Steps should be taken to secure the premises adequately and avoid fraudulent transactions.

3.1.1 Canada Pension Plan Survivor Benefits

CPP survivor benefits are paid to the deceased contributor's surviving spouse (common-law partner) and dependant children. There are three types of benefits:

1. **Death Benefit:** one-time payment to the estate of the deceased's Canada Pension Plan contribution
2. **Survivor's Pension:** monthly pension paid to the surviving spouse (common law partner) of the deceased contributor
3. **Child's Benefit:** monthly benefit for dependent children of the deceased contributor

The death benefit is a maximum of $2,500 or six months' worth of calculated retirement pension if the deceased had been age 65 when death occurred. The benefit is taxable to the recipient, either the estate or the beneficiary. To qualify, the minimum contribution period must be met.

Carefully consider major decisions during highly emotional times

The survivor's benefit is determined by the amount that the deceased would have received if they had been 65 at the time of death and also the age of the survivor. See the Service Canada Website for current rates: **www.servicecanada.gc.ca**.

The child's benefit is available for a child who has lost at least one parent who was a resident CPP contributor. The taxable monthly child's benefit is a flat rate and is adjusted annually. An application in writing must be made. If the child is under the age of 18, the benefit is generally paid to the person with whom the person is living.

For a look at benefit amounts, see **www.esdc.gc.ca/en/cpp/benefit_amount.page**.

CHAPTER 4
Personal Representative Responsibilities

4.1 Income Tax Return Filing Obligations

4.1.1 Terminal Return

For deaths that occur on or after January 1 to October 31 in a taxation year, the filing date for the terminal return is April 30 of the following year.

For deaths that occur on or after November 1 to December 31 in a taxation year, the filing date for the terminal return is six months following the date of death.

This filing deadline applies for the spouse/common-law partner of the deceased although any taxes owing are due on April 30.

Where the deceased or their spouse/common-law partner were carrying on a business at the time of death, the filing deadline is June 15 for deaths occurring on or after January 1 to December 15 and six months after the date of death for deaths occurring on or after December 16 to December 31.

4.1.2 Deceased's Previous Year Tax Return

Where a deceased dies before filing the previous year's tax return, the deadline to file that return is six months after the date of death. For example a person who dies in January of a taxation year has probably not filed their return for the previous year, which would normally be due April 30. Rather than being due April 30, it is due six months after the date of death.

Where the will or a court order establishes a testamentary spousal or common-law partner trust and testamentary debts are being paid by the trust, the due date for the final return is extended to 18 months following the date of death, although taxes remain owing by the due date.

4.1.3 Rights and Things Return

Amounts that have not yet been paid to the deceased at the time of death that would have been paid and included in their return if they were still alive can be included on the Rights and Things Return.

“Rights and things” include:

- amounts owed by the employer at the date of death
- amounts owed by the employer for a pay period that was completed prior to the date of death
- Old Age Security benefits
- bond coupons that have matured but have not been cashed
- unpaid and unreported bond interest that was earned before the date of death
- unpaid dividends that were declared prior to the date of death
- where the deceased was a farmer or fisherman who used the cash method, any accounts receivable, inventory and supplies on hand
- an artist’s inventory which they have elected to value at nil
- where the deceased used the cash method, livestock that is not part of the herd and harvested farm crops
- work in progress, where the deceased was a professional sole proprietor and had elected to exclude work in progress when calculating their income. A professional who can elect to exclude work in progress includes accountants, chiropractors, dentists, lawyers, advocates or notaries in Quebec, medical doctors, and veterinarians

A rights and things return is filed by using a T1 General Income Tax and Benefit Return with “70(2)” written at the top of the return. This return must be filed by the later of one year after the date of death or 90 days after the CRA mails the notice of assessment or reassessment of the final return. However, the due date to pay any balance owing is April 30 of the year following death where the death occurs on or after January 1 to October 31, or six months after the date of the death when the death occurs on or after November 1 to December 31, unless an election is filed in prescribed form to pay later. Interest will still be charged for any amounts owing after the due date.

4.1.4 Return of a Partner or Proprietor

If the deceased had a fiscal period that is different from the calendar taxation year, an optional return can be filed. Income reported on this return is for the period after the fiscal period of the last return and the date of death. This return is filed by using a T1 General Income Tax and Benefit Return and writing “150(4)” at the top of the return. The filing deadline and due date deadline for taxes owing are the same as the final return.

4.1.5 Testamentary Trust Return

A testamentary trust return is filed by using a T3 Trust Income Tax and Information Return. This return must be filed and taxes are due the same as the final return.

You can claim some of the personal tax credits on each of the final return and optional returns including:

- the basic personal amount
- age amount
- spouse/common-law partner amount
- eligible dependant amount
- infirm dependants age 18 or older amount
- caregiver amount.

Other amounts can be split between the returns including as an example,

- the disability amount for the deceased, and the disability amount that is transferred from a dependant
- charitable donations that do not exceed the net income reported on that return
- cultural, ecological and Crown gifts
- home buyers’ amount
- certain student loan interest

- education, tuition, text books amounts of deceased or amounts transferred from a child
- amount for public transit passes
- children's fitness amount
- children's arts amount
- medical expenses subject to a prescribed formula

4.2 Timeline and Checklist of Tasks

The executor of a will has many tasks to complete in administering and settling an estate. Obtain professional advice when necessary.

A lawyer can interpret the will, advise the executor of their duties, identify legal issues, advise on whether or not probate is required, represent the executor in court, prepare legal documents regarding transferring or selling the estate assets, and prepare releases for the beneficiaries.

4.2.1 Immediately After Death Checklist

- ☐ Arrange for organ donation where applicable
- ☐ Arrange for care of minors
- ☐ Arrange for care of pets
- ☐ Obtain death certificate or statement of death from the funeral director and get several original copies
- ☐ Arrange for or assist with funeral service and burial or cremation
- ☐ Arrange to take care of perishable food, plants and disposables
- ☐ Locate the original Last Will and Testament of the deceased
- ☐ Go to the safe deposit box
- ☐ Arrange for security of the decedent's home, car, motor home, property or business, other valuable assets and review that adequate insurance is in place
- ☐ Contact the post office to arrange for mail delivery of the deceased to be redirected to the executor

- ☐ Notify the CRA of the deceased's date of death and provide them with death certificate and will or letters probate
- ☐ Consider appointing a legal representative to deal with the CRA with respect to the estate
- ☐ Open account for the deceased's estate
- ☐ Cancel credit cards on which the deceased was the only signer and return the cards to issuers or destroy them
- ☐ Notify all other credit card companies where deceased had an account with another person

4.2.2 Interim Checklist

- ☐ Locate all important documents
- ☐ Locate and prepare a list of assets that are owned by the deceased
- ☐ Prepare a list of legitimate debts of the deceased
- ☐ Locate and notify beneficiaries, confirm contact and any other applicable information and discuss the process of administering the will
- ☐ Get valuations of real property and other valuable assets where required
- ☐ Consider consulting with a lawyer to discuss the estate, any potential contentious claims, liabilities, debts and other legal issues
- ☐ Apply for probate if required and pay applicable probate fees (valuation of estate is required to determine probate fees/taxes)
- ☐ Notify and Request death benefits from Canada Pension Plan, OAS, other pensions, life insurance policies and annuities
- ☐ Advertise for creditors
- ☐ Consult a lawyer before requesting distribution of retirement benefits

- ☐ Cancel newspapers, subscriptions and other home deliveries and request refunds where applicable
- ☐ Pick up personal effects from the long-term care home
- ☐ Notify Service Canada, Passport Canada, provincial health ministry and other government agencies where applicable
- ☐ Finish gathering and organizing financial documents
- ☐ If a trust is involved, consult a lawyer
- ☐ Evaluate business and partnership obligations. If necessary, notify the decedent's employer or other business contacts. Collect information on the disposition of the deceased's last pay cheque, company life insurance, pension benefits, money in deferred compensation or profit-sharing accounts
- ☐ Pay funeral expenses, taxes and legitimate debts

4.2.3 Final Matters Checklist

- ☐ Subject to the will and investment powers:
  - convert assets into cash
  - deposit in estate account
  - invest
- ☐ Prepare outstanding tax returns including any outstanding prior year return:
  - Terminal T-1 Return
  - T-3 Trust and Estate Return

  and, where applicable:
  - a partnership stub return (for the period from the beginning of the tax year to the date of death)
  - trust stub return (for the period from the beginning of the tax year to the date of death), and
  - a rights and things return

- ☐ Request a Clearance Certificate from the Canada Revenue Agency that indicates all outstanding tax liabilities have been paid
- ☐ Deliver personal property, in accordance with the will, to the beneficiaries
- ☐ Prepare an account showing:
  - original assets
  - income receipts
  - capital receipts
  - income disbursements
  - capital disbursements
  - compensation
- ☐ Obtain signed release from beneficiaries
- ☐ Distribute estate to beneficiaries and notify them of any tax liability
- ☐ Close the estate account

4.3 GST/HST Credit and Other Benefits

Arrange to have payments stopped or transferred to a survivor, if applicable, in any of the following situations where the deceased was receiving:

- the GST/HST credit
- the working income tax benefit (WITB) advance payments
- benefit payments for a child — Canada Child Tax Benefit (CCTB) and/or Universal Child Care Benefit (UCCB), or where CCTB and/or GST/HST and/or UCCB payments are made for the deceased who was a child.

Do not pay instalment payments that are due after the deceased's death. Pay any outstanding instalment payments that were due prior to the deceased's death.

Return any GST/HST payment that is sent out after the deceased's death. GST/HST credits are generally issued on the fifth day of each of July, October, January and April and may be issued prior to the CRA being made aware of the deceased's death. If the deceased died before a schedule month of issue, no more payments will be made to that person or to their estate. Where the deceased died during or after the scheduled month of issue and the payment has not been cashed, return the cheque to the CRA so that they can issue the payment to the deceased's estate.

Where the deceased was receiving a credit for a child, inform the new caregiver to request payments from the CRA for the child.

The deceased's spouse or common-law partner may qualify to receive the GST/HST credit payments based on their income alone.

The deceased's spouse or common-law partner should contact the CRA if the deceased's GST/HST credit included them and any children.

A person receiving a GST/HST credit for a child who has died should contact the CRA as soon as possible with the date of death. The credit payments stop the quarter after their date of death.

4.4 Unclaimed Funds

The deceased's personal representative can contact their local tax services office to determine whether there is an unclaimed tax refund. Canadian banks are required to try to contact owners of bank accounts with unclaimed balances in January following each of the second and fifth years of inactivity and to publish notices in the *Canada Gazette*. Banks are required to hold account balances for ten years from the last bank transaction by the account owner before transferring the unclaimed balance to the Bank of Canada. The Bank of Canada is required to hold accounts worth less than $1,000 for a further thirty years. The Bank of Canada is required to hold unclaimed accounts worth $1,000 for one hundred years. The Bank of Canada maintains a database of unclaimed balances. See **www.bank-banque-canada.ca/scripts/search_english.cfm** For more information and a link to search the Unclaimed Balances Registry, see **www.bankofcanada.ca/unclaimed-balances**.

CHAPTER 5
Gathering and Organizing

At any stage in life, it is important to have easy access to important documents. For example, for your own planning and decision-making purposes, you'll want to be able to easily determine your assets (what you own) and your liabilities (what you owe). You will also need to know where key papers and documents are located. Once you have the documents you need, it is a good idea to store them all but legal directives discussed in Section 1.1 in a safe deposit box or fireproof home safe.

Are your documents up-to-date?

Can you quickly locate them in an emergency?

5.1 Checklist of Documents

This list of documents have been discussed in this *Guide* and may be required by an executor. Documents that are not applicable can be marked with N/A.

Document Type	Section	
Living Will/Advance directive	1.1.1	
Assets held in trusts	2.3.3	
Auto and home insurance agents	4.2	
Bank accounts	4.2	
Bank books and statements	4.2	
Banker	4.2	
Beneficiary designations for RRIFs, RRSPs, RSPs, TFSAs, life insurance, annuities, other	4.2	

Document Type	Section	
Birth certificate	4.2	
Business registration	2.5.2, 4.2	
Business documents	2.5.2	
Canada Pension Plan/Quebec Pension Plan	1.2.8	
Capital gains exemptions	2.6	
Caregiver expenses	1.4.2	
Charitable donations	2.7	
Chartered Professional Accountant	4.2	
Choice of guardian(s) for children	2.2.5, 4.2	
Constating document	2.5.2	
Credit card statements	4.2	
Death certificate	4.2	
Deeds and titles to real and personal property, including cars, motorcycles, boats and airplanes	4.2	
Disability Tax Credit	1.4.5	
Disability insurance	1.2.1	
Disability supports expenses	1.4.1	
Divorce decrees	4.2	
Do Not Resuscitate (DNR) order	1.1.5	
Employee benefits	4.2	
Employment history	1.2.7, 4.2	
Executor	4.2	
Extended Health Care	1.2.6	
Family members	4.2	

Document Type	Section	
Financial planner	4.2	
Funeral wishes, prepayments	2.8, 4.2	
General partnership agreement	2.5.2, 4.2	
Home accessibility expenses	1.4.6	
House deed	1.3, 4.2	
Incorporation documents	2.5.2, 4.2	
Insurance policies	4.2	
Intellectual property rights	2.5.2	
Investment statements (mutual funds, RRSPs, RRIFs, RSPs, TFSAs, PRPPs, brokerage)	2.4, 4.2	
Last will and testament	2.2, 4.2	
Latest financial statements (personal or business)	4.2	
Lawyer	4.2	
Life Insurance	2.4.4, 4.2	
Life, health, long-term care and disability insurance policies	1.2.1, 1.2.6, 2.4.4, 4.2	
Limited liability partnership agreement	2.5.2, 4.2	
Limited partnership agreement	2.5.2, 4.2	
List of appointments as trustee or guardian	4.2	
List of assets jointly owned with spouse	2.3.1, 4.2	
List of assets wholly owned	4.2	
List of beneficiaries	2.2.4	
List of family property	2.3.2	
Living will	1.1.1	
Loan documents	2.5.2, 4.2	

Document Type	Section	
Long-term Care Insurance	1.2.6	
Marriage certificate	4.2	
Medical expenses	1.4.4	
Membership cards	4.2	
Military records	4.2	
Mortgage	1.3, 1.3.1, 4.2	
Other housing documents	1.3, 4.2	
Ownership and history of assets	2.5.2	
Passport	4.2	
Pensions	4.2	
Pooled Registered Pension Plans	1.2.7, 1.2.16	
Power of attorney for personal care/Health care proxy	1.1.2	
Power of attorney for property	1.1.3	
Principal Residence Exemption	2.6.3	
Probate	2.2.3	
Pre-nuptial and other domestic agreements	4.2	
Records and documents • for at least six years if you filed on time; • six years since a return was filed if later; or • for longer periods in certain circumstances	4.2	
Registered Disability Savings Plan	1.2.3, 2.4.3	
Registered Retirement Income Fund	1.2.12, 1.2.13.1	
Registered Retirement Savings Plan	1.2.11, 1.2.13.1	
Related business documents	2.5.2, 4.2	
Retirement benefits	4.2	

Document Type	Section	
Retirement accounts, and pensions	1.2.7, 4.2	
Safe deposit boxes	4.2	
Specified Pension Plans	1.2.7, 6	
Shareholder or Unanimous Shareholder Agreement	2.5.2, 4.2	
Tax-free Savings Account	1.2.13	
Tax Returns Filing Obligations	4.1	
Terminal and other tax returns	4.1, 4.2.3	
Testamentary wills (include multiple wills)	2.2, 4.2	
Timeline and Checklist of Tasks	4.2	
Trust Instruments	2.4.5, 4.2	
U.S. Social Security Benefits	1.2.15	
Valuation Reports	2.5.2	

Knowing in advance where these documents are kept will serve to reduce the stress of locating them at a time when your attention is needed in other areas.

There may be other documents that are not financial in matter, but will give peace of mind—for instance, where the septic tank is buried.

CHAPTER 6
Resources

The material contained in this booklet is designed to introduce some basic and fundamental topics related to managing financial affairs during and at the end of life. These topics can be fairly dense and complex. Information about resources and referral centres for Chartered Professional Accountants, lawyers, financial planners and government agencies are provided below.

Chartered Professional Accountant (CPA)

CPAs can assist individuals with a variety of financial issues, including tax and financial planning, management consulting and business valuation.

- www.cpacanada.ca

Lawyer

A lawyer can assist individuals with a variety of legal issues, including wills, estates, trusts and healthcare advance planning. Individuals are advised to seek the advice of an experienced lawyer when dealing with any identified legal issue.

The Federation of Law Societies of Canada co-ordinates the 14 law societies across Canada. Their website has links to each law society as well as affiliated bodies, such as the Canadian Bar Association. The Federation administers the search engine CanLII (**www.canlii.org**) which provides free public access to the laws and court decisions in Canada.

- **www.flsc.ca**

Canadian Bar Association—National Elder Law Section

- **www.cba.org/cba/sections_elder/main**

Trust and Estate Practitioners

The Society of Trust and Estate Practitioners

The Society of Trust and Estate Practitioners (STEP Canada) has over 2,000 members in Canada. This multi-disciplinary organization has experienced and senior practitioners, including Chartered Professional Accountants, financial planners, insurance advisors, lawyers, and trust professionals. There are branch offices in the Atlantic region, Calgary, Edmonton, Montreal, Ottawa, Toronto, Vancouver and Winnipeg.

- **www.step.ca**

Financial Planners

Financial Planning Standards Council

The Financial Planning Standards Council (FPSC) is a not-for-profit organization that develops, promotes and enforces professional standards for financial planners through a certification process. Their website hosts a searchable financial planner database.

- **www.fpsc.ca/find-a-planner-certificant**

Advocis: The Financial Advisors Association of Canada

This voluntary membership association of professional financial advisors in Canada has over 11,000 members and 40 chapters across Canada. The link below offers descriptions of the different designations of financial advisors including Chartered Life Underwriters, Certified Health Insurance Specialists, Chartered Financial Consultants, Certified Financial Planners and other industry designations.

- **www.advocis.ca/home.html**
- **www.ouradvisor.ca**

The Canadian Life and Health Insurance Association

The Canadian Life and Health Insurance Association is a voluntary trade association comprised of life and health insurers in Canada.

- www.clhia.ca

Succession Planning Consultants/Family Business Facilitators

Canadian Association of Family Enterprise (CAFE)

CAFE provides a registry of Family Business Advisors.

- www.cafecanada.ca

The Business Families Foundation

This Foundation is a charitable organization with a mandate to empower, help and support business families to remain sustainable for the long-term over the generations.

- www.businessfamilies.org/en

Other Resources

Advance Care Planning in Canada

- www.advancecareplanning.ca

Benefits Finder

This site creates a custom-made guidebook on programs and services from the Federal, provincial and territorial governments based on answers on questionnaire completed by the inquirer.

- www.canadabenefits.gc.ca

Birth, Marriage and Death Certificates

These certificates can be obtained from the provincial registry (often called Vital Statistics). The Ontario government lists contact information for each province and territory at www.ontario.ca/faq/where-are-vital-statistics-offices-each-canadian-province

Canada Benefits

Service Canada provides this website which holds information on various programs and services from the federal, provincial and territorial governments.

- www.canadabenefits.gc.ca

Canada Revenue Agency

- www.cra-arc.gc.ca

Canadian Healthcare Association

- www.healthcarecan.ca

Canadian Hospice Palliative Care Association

- www.chpca.net

Canadian Medical Association

- www.cma.ca

Canadian Mental Health Association

- www.cmha.ca

CPP, QPP and OAS Monthly Payments

Information cards which are published quarterly are available here and show amounts of CPP, QPP and OAS monthly payments. CPP and QPP are adjusted annually for inflation. OAS is adjusted quarterly for inflation.

- www.servicecanada.gc.ca/eng/services/pensions/infocard/index.shtml

Financial Consumer Agency of Canada (FCAC)

- www.fcac-acfc.gc.ca

Health Insurance in Canada

Provides information on private health care insurance and has links to each provincial and territorial health plan summary and the applicable health care ministry.

- www.healthinsurancecanada.com

Information for Seniors Online

The government of Canada hosts an information website with a section for seniors and a section for caregivers with links to programs and services from the federal as well as the provincial and territorial governments.

- www.seniors.gc.ca

Long-Term Care Insurance

- www.longtermcarecanada.com

Office of Consumer Affairs

Innovation, Science and Economic Development Canada

- consumer.ic.gc.ca
- www.canada.ca/en/innovation-science-economic-development.html

Pallium Canada

- www.pallium.ca

Persons with Disabilities Online

- www.pwd-online.gc.ca

Quality End-of-Life Care Coalition of Canada

- www.qelccc.ca

Provincial Ministries

Alberta Health

- www.health.alberta.ca

British Columbia

Ministry of Health

- www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/ministries/health

Manitoba Health

- www.gov.mb.ca/health/

New Brunswick Heath

- www2.gnb.ca/content/gnb/en/departments/health.html

Newfoundland and Labrador

Department of Health and Community Services

- www.health.gov.nl.ca/health

Northwest Territories

Health and Social Services

- www.hss.gov.nt.ca

Nova Scotia

Department of Health and Wellness

- www.novascotia.ca/DHW

Nunavut

Department of Health

- www.gov.nu.ca/health

Ontario

Health and Long-Term Care

- www.health.gov.on.ca/en/public/programs/ohip

Prince Edward Island

Health and Wellness

- www.gov.pe.ca/health

Quebec

Health and Social Services Centres

- www.sante.gouv.qc.ca/en/systeme-sante-en-bref/csss

Saskatchewan

Ministry of Health

- www.saskatchewan.ca/government/government-structure/ministries/health

Saskatchewan Pension Plan

Applications to join the pension plan are made on a specific form to the Saskatchewan Pension Plan. Membership is open to individuals who are 18 years to 71 years of age. Contributions are subject to an annual maximum threshold and the individual's RRSP contribution room. In addition, a participant can transfer an annual maximum threshold from existing unlocked RPPs, RRSPs and RRIFs.

- www.saskpension.com

Yukon

Health and Social Services

- www.hss.gov.yk.ca

Seniors Canada

- www.seniors.gc.ca

Service Canada

This government portal provides one-stop access to delivery of many government programs including: the Canada Pension Plan, Home Adaptations for Seniors Program from CMHC, and passport services.

- www.servicecanada.gc.ca/en/home.shtml

Taxation for Seniors

Information on filing tax returns, Registered Retirement Savings Plan, Attendant, Care Expenses Paid to a Retirement Home and more.

- www.cra-arc.gc.ca/seniors

CHAPTER 7
Glossary

Advance Directives

Legal document written by an attorney or the person directing the physician about a patient's request for terminal care; can designate whom a patient selects for making medical decisions when the patient is no longer able to do so.

Amendment

Any change (addition or deletion) in a legal document.

Ancillary

Something that is subordinate or auxiliary to something or someone else.

Annuitant

The beneficiary of an annuity.

Annuity

The payment of an allowance or income, either annually or at other intervals, for a lifetime or for a certain number of years.

Attorney (Agent)

A person who holds a power of attorney that has written authorization to transact business and execute documents for another person.

Beneficiary

The person who collects the benefits from a will, trust or pension.

Bequest

An act of giving a gift of personal property by will.

Codicil

A supplement or appendix to a will; intended to alter an already executed will.

Community Property or Family Property

Classification of property equally owned by a husband and wife that was acquired during their marriage.

Constructive Trust

Without regarding the intention of the parties, this trust is created by a court as a means of justice to benefit the party that has been mistakenly deprived of its rights.

Contest of a Will

A legal process attempting to prevent the probate of a will or the distribution of property according to the will.

Corporate Fiduciary

A bank or trust institution with fiduciary powers. Examples include an executor, administrator, trustee or guardian.

Corporation

A separate and distinct legal entity.

Corpus (body)

The capital or principal amount of an estate or trust.

Custodian

One whose duty it is to take care of something, such as an estate or property.

Decedent

A deceased individual.

Defined Contribution Plan

A retirement plan where the contribution amount is defined but the future benefit is based on the performance of the assets held within the plan.

Disclaimer

A repudiation of any interest in or claim to the subject of the action, such as rejection of any title, claim, interest, estate or trust.

Distribution

The dissemination of property to those entitled to receive it according to the terms of a will or trust agreement.

Domicile

The location of a person's permanent home; where they legally reside.

Donee

One who obtains a gift.

Donor

One who contributes a gift.

Duress

Unlawful constraint used to force a person to do some act against their will.

Enduring Power of Attorney

A legal document that allows an individual to designate another person to make legal decisions on the individual's behalf and continue to do so during the incompetency.

Estate

The total assets of a person at the time of their death.

Estate Plan

A plan for the administration and disposition of an individual's property during their lifetime and at their death; established in a will and one or more trust agreements.

Executor/Executrix

See *Last Will and Testament.*

Fair Market Value

The price at which a property is transferred between willing buyers and sellers who are both acting rationally and with complete knowledge of the situation.

Fiduciary

An individual or institution bearing a relationship of trust and responsibility for the benefit of another.

Gift Tax

This is a U.S. federal and state tax imposed on the transfer of property; to be paid by the donor rather than the recipient.

Graduated Rate Estate

As of December 31, 2015, a graduated rate estate is a testamentary trust that consequently arose on the death of an individual and exists for no longer than 36 months after their death. The estate is required to designate itself as the individual's graduated rate estate on the T3 Trust Return in its first year as a graduated rate estate. The individual's social insurance number must be included on the trust return each year the trust is a graduated rate estate. A graduated rate estate can have a non-calendar year end while it remains a graduated rate estate and must subsequently change to a calendar year end when it is taxed at the highest marginal rate. Graduated rate estates are also eligible for the $40,000 alternative minimum tax exemption and are not required to pay quarterly instalments where tax liability is more than $3,000.

Grantor

This person grants property or property rights through a written instrument.

Gross Estate

The total value of an individual's property in an estate before liabilities are deducted.

Guardian

There is a legal relationship between a ward and a guardian. Wards are usually those who have been declared incompetent by the courts to make particular decisions on their own behalf. Court-appointed guardians act as surrogate decision-makers for the ward.

Guardian Ad Litem

A court-appointed person representing the interests of a minor or incompetent person in court and legal matters.

Guardian or Committee

A person legally appointed by a court to manage the affairs of an individual who may be physically or mentally incapacitated.

Heir

A person entitled by a will or by the court to inherit the estate of another.

Heirs-at-Law

The relatives of a person who has died without creating a valid will. These heirs inherit the property of the deceased.

Holographic Will

A handwritten will by the person making the will.

Incidents of Ownership

The rights the owner has under an insurance contract. Examples include the right to cash in the policy, to receive a loan on the value of the policy and to change the designated beneficiary.

Incompetent Person

A person who is legally not capable of managing their affairs because of a mental (not physical) handicap.

Inter Vivos Trust

A trust that is created during the settlor's lifetime.

Intestacy

When an individual dies without leaving a valid will.

Intestate

See *Last Will and Testament*.

Inventory

Refers to the list of items included in the estate of a deceased person.

Irrevocable Trust

See *Trusts*.

Joint and Survivorship

When a husband and wife are joint beneficiaries of an annuity. Upon the death of either, the remaining spouse becomes the sole beneficiary.

Joint Tenancy

Two or more people mutually holding legal title to property. In the event that one owner dies, the surviving owner receives the entire property.

Last Will

The last will a person completes. All former wills are invalid; this term is used to emphasize the fact that it is the most current and effective will of the maker.

Last Will and Testament

A will is perhaps the most well-known means of disposing of property at death. Every jurisdiction in Canada has its own rules for making a valid will, with each setting out requirements for a will to be valid in that jurisdiction. The person nominated by the testator to wind down the affairs of the decedent is called the personal representative (also known as executor or executrix or liquidator in Quebec). When a person with a will dies, they are said to die testate. This means that the will governs the disposition of that person's property. A person dying intestate has no valid last will and testament. A partial intestacy can arise where all property of the deceased is not addressed in their will.

Letters of Administration

A legal document issued by a probate court that gives the administrator authority to take control of assets in the deceased person's name.

Letters Testamentary

A legal document by a court giving an executor power to take control of and distribute property.

Lien

A legal claim against a property; security for payment of an obligation.

Living Will

A directive to physicians in which an individual expresses their desire not to be kept alive by extraordinary means when they are determined to be in a terminal condition. This document directs the physician to give or withhold life sustaining medical care. The principal should state in the living will the conditions under which treatments should be continued or discontinued, and what types of life-sustaining efforts should be made.

Lump Sum Distribution

One lump sum payment of an individual's retirement plan benefits rather than equal payments over a specific period of time.

Minor

A person under legal age; meaning under the age where they are granted full legal rights. For tax purposes, a person who has not attained the age of 18 in the calendar year is a minor.

Notary Public

A person authorized by the province or territory to certify documents.

Notice to Creditors

A public notice to creditors of an estate to present their claims for what the executor or administrator owes them out of the estate.

Pension Plans (defined benefit plan)

A traditional retirement plan offered by some employers that pays a set amount each year during retirement. They are company pensions that guarantee a specific amount of benefits to employees.

Personal Representative

A person who manages the legal affairs of another, such as an executor or administrator.

Powers of Attorney

A document whereby one person (the "principal") authorizes someone else (the "agent" or the "attorney-in-fact") to act on their behalf. A power of attorney may be general, granting broad authority to make decisions concerning investments, tax matters and property transactions, or it may be specific, granting only limited authority to perform one or more specific duties. Every province and territory has legislation authorizing the creation and use of powers of attorney. In all cases, the principal must be competent when the power of attorney is executed. Note: there are different kinds of powers of attorney that are also called advance directives (see definition above).

Probate (verb)

A legal process where a deceased person's estate is administered and distributed; includes payment of outstanding obligations.

Probate Court

This court (also may be known as surrogate court) has jurisdiction over a deceased person's estate and also over people under guardianship.

Probate of Will

Presentation of proof before a court to establish the validity of a will and to admit a will to probate.

Profit-Sharing Plan

This plan provides employees with a share of the net profits of the business (in addition to their regular wages).

Qualified Disability Trust

Effective January 1, 2016, a qualified disability trust that is eligible to be taxed at the graduated tax rates is a testamentary trust that consequently arose on the death of an individual and jointly elects with one or more named beneficiaries on its T3 Trust Return to be a qualified disability trust for the year. The election must include the social insurance numbers of all electing beneficiaries and they each must qualify for the disability tax credit for the year. An electing beneficiary cannot elect with another trust to be a qualified disability trust in the same year. The trust must be a Canadian resident in fact and not be subject to recovery tax for the year. A qualified disability trust will be subject to a recovery tax where it ceases to be eligible for graduated tax rates for a prior year, such as when the only or last remaining electing beneficiary dies, the trust is no longer a Canadian resident in fact, or a capital distribution is made to a non-electing beneficiary.

Quick Claim Deed

Conveyance of real property.

Residue

The remaining portion of a deceased person's estate after all payments (debts, expenses, etc.) have been made.

Revocable Trust

See *Trusts*.

Revocation

The act of making a will or a trust instrument void.

Services for the Elderly Client

Services offered by CPAs to design, implement and monitor financial strategies for maturing families and individuals to assist them in maintaining and enjoying their personal independence.

Simultaneous Death

When two or more people die and the order of their death cannot be determined.

Successor Trustee

When an original trustee dies or becomes incapable of managing their own trust or is otherwise unable to act, this person(s) becomes responsible for management of the trust.

Tenancy by the Entirety

Joint ownership of real property by a husband and wife in which both have rights to the property. Upon the death of either the other has the title through the right of survivorship.

Tenancy in Common

When two or more owners share a stated portion of property. Upon the death of one owner, their portion does not go to the remaining owner(s), but to the deceased owner's heirs.

Testamentary Capacity

The mental ability to be of sound mind and comprehend the nature and effects of making a will, the scope of the testator's property and who the normal beneficiaries would be.

Testamentary Trust

A testamentary trust is usually created by the maker's will, funded by the estate and administered by a trustee named in the will.

Testate

See *Last Will and Testament*.

Testator

See *Last Will and Testament*.

Testatrix

See *Last Will and Testament*.

Trustee

A trustee manages the trust for the benefit of the trust beneficiaries. A trustee is required to meet a certain standard of care when administering their duties and powers, which are set out in the trust document and applicable trust legislation. Trustees are also required to meet the requirements of the applicable *Income Tax Act* provisions when administering a trust.

Trusts

Trusts are legal arrangements by which the legal ownership and the beneficial ownership of assets are separated. Trusts can be divided into two major categories — irrevocable or revocable. Irrevocable trusts cannot be changed (with very few exceptions) once they are put in place. Revocable trusts can be amended and/or changed.

Trust Company

A corporation engaging in the trust business; serves both individuals and business organizations.

Trust Instrument

A document that establishes a trust. Examples include a will, trust agreement, declaration of trust, deed of trust or order of court.

Trust under Will

See *Testamentary Trust*.

Vesting

When a person has received a benefit right, which is attributed to employer contributions, and is not contingent upon the person's duration of employment.

Ward

There is a legal relationship between a ward and a guardian. Wards are usually persons who have been declared incompetent by the courts to make particular decisions on their own behalf. Court-appointed guardians act as surrogate decision-makers for the ward.

Warranty Deed

A deed in which the seller guarantees the title is good; the deed contains covenants of title.

Will

A legal document stating a person's desires regarding how and to whom they want their property distributed after they die.

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