

# Legacy Giving: Components of a Good Estate Plan

Estate planning is not only for the wealthy—everybody can benefit from ensuring their assets and finances are properly taken care of after their death.

Many people believe that if they have a Will, their estate planning is complete. Yet there is much more to a solid estate plan.

A good plan should be designed to:

- avoid probate, save on estate taxes and protect assets
- appoint someone to act for you if you become disabled
- provide for family, loved ones and charities that you care about

All estate plans should include, at minimum, two important estate planning instruments: a power of attorney and a Will. In addition, medical directives allow you to appoint someone to make medical decisions on your behalf.

## Will

A Will is a legally-binding statement directing who will receive your property at your death. Fifty percent of British Columbians have a signed, legally valid and up-to-date Will'. If you do not have a Will, you die intestate and government legislation will determine how your property is distributed. A Will also appoints a legal representative (called an executor) to carry out your wishes. A Will is especially important if you have minor children because it allows you to name a guardian for the children and set provisions for when and what they will inherit. Jointly-owned property, property in trust, life insurance proceeds and property with a named beneficiary, such as RRSPs, generally pass outside of probate and aren't covered under a Will.

It's good practice to review your will at least every three years or whenever a significant change occurs in your life, such as getting married or divorced, having your first child or grandchild, retiring, or experiencing a significant health event.

## Power of Attorney

An enduring power of attorney allows a person you appoint to act in your place for financial purposes, for example, when and if you ever become incapacitated. In that case, the person you choose will be able to step in and take care of your financial affairs. Without a power of attorney, no one can represent you unless a court appoints a committee or guardian. That court process takes time, costs money, and the judge may not choose the person you would prefer. In addition, under a guardianship or committee ship, your representative may have to seek court permission to take planning steps that he/she could implement immediately under a simple power of attorney.

## Executor

Although being named an executor on a Will is often considered an honour, it can be a burden. If there is any complexity to your financial affairs, or if there is a complicated or sensitive family situation to deal with, the role of executor can be both time-consuming and demanding.

Most people pick a family member or friend without considering the role. Given the complexities and fiduciary responsibilities associated with the position, ensure that your chosen executor is willing and able to take on this role upon your passing. An option when considering who to name as executor is to name a trust company as executor of your estate.

## Advance Care Plan

If you are capable of understanding and communicating with your doctor or other health care provider, you will make your own health care treatment decisions. However, if you become incapable of making your own health care decisions at the time care is needed, advance care planning provides family or close friends and health care providers with a guide to your care and treatment, based on your wishes.

Advance care planning may encompass a number of different documents, including a representation agreement, advance directive or a living Will. A representation agreement allows you to name a person to make routine financial management decisions, personal care decisions and health care decisions. A broader medical directive allows you to state your decisions about accepting or refusing health care treatments, including life support or life-prolonging medical interventions.

## Beneficiary Designations

When creating an estate plan, you should make sure your retirement plan beneficiary (RRSP, TFSA) and life insurance designations are up to date. If you don't name a beneficiary, the distribution of benefits may be controlled by provincial or federal law or according to your particular plan. Some plans automatically distribute money to a spouse or children. Some people select the estate as the beneficiary of the plan, but this could have negative tax consequences. The only way to control where the money goes is to name a beneficiary. Registered charities can also be named as a beneficiary, with tax advantages as well. Beneficiary designations should be made in conjunction with the overall estate plan.

*Please seek independent financial and legal advice to ensure that your estate plan is complete.*

### For more information, please contact:

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<sup>i</sup> <https://www2.gov.bc.ca/gov/content/life-events/death/wills-estates/make-a-will-week>