**Estate Planning for Members**



**What is a Will?**

A will is a legal document that outlines how a person's assets and property will be distributed after their death. A will ensures that your member’s wishes are followed with regards to the distribution of their assets and can help avoid disputes among family members or beneficiaries. A will also allow a person to appoint an executor who will manage their estate and ensure that their wishes are carried out according to the terms of the will. Without a will, the distribution of your member’s assets will be determined by the laws of the province in which they reside, which may not align with their personal wishes or intentions.

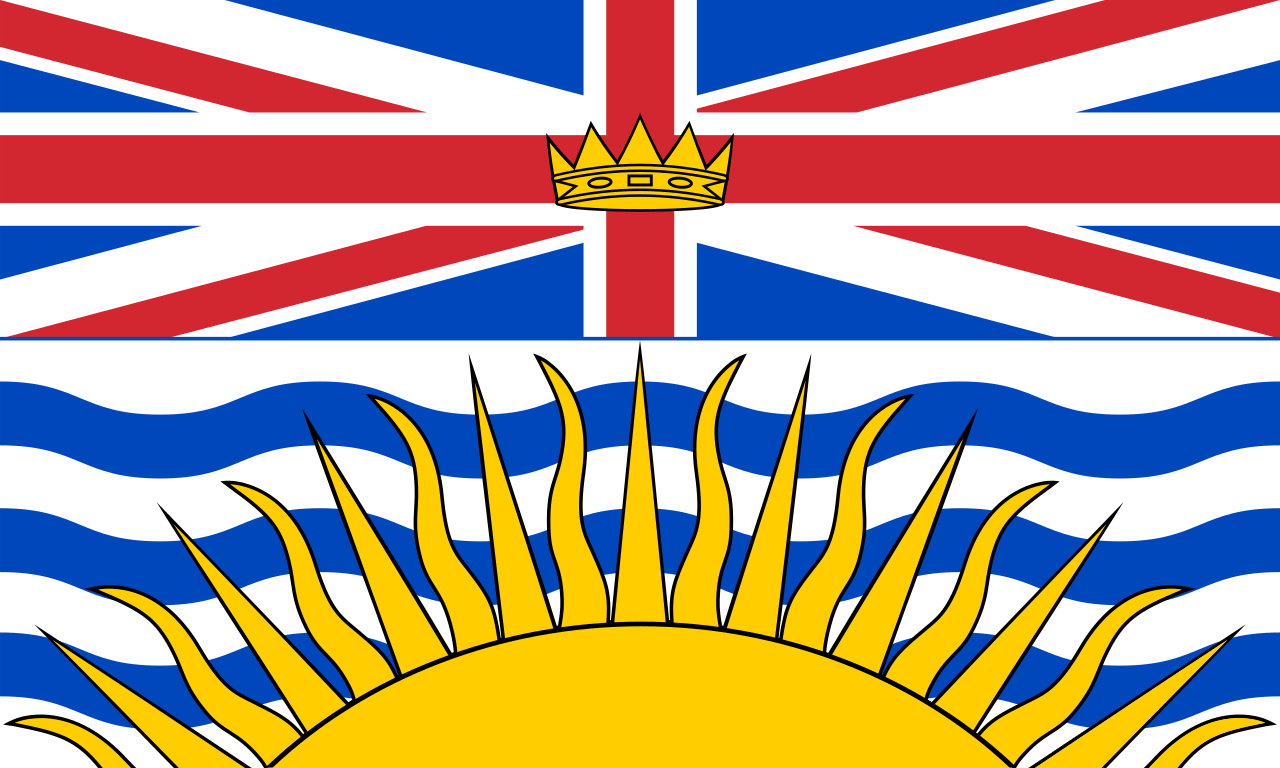
Estate planning involves creating a plan for the distribution of assets upon death or incapacitation. Some common strategies include:

1. Writing a will: A will outline the distribution of assets and can be used to name an executor and guardian for minor children.
2. Setting up a trust: A trust can be used to manage assets for the benefit of beneficiaries and minimize taxes.
3. Power of Attorney: Designating someone to make decisions on your behalf in case of incapacity.
4. Life insurance: Life insurance can be used to provide funds to pay for funeral expenses and to support loved ones after your death. It can also be used to pay taxes on registered assets.
5. Joint ownership: Assets can be jointly owned with the right of survivorship, allowing for a smooth transfer of ownership upon death.

**What happens if you die without a will in Canada?**

When a person dies without a will in Canada, their assets are distributed according to the laws of intestacy, which is the legal process of distributing a person's estate when they die without a valid will. This usually involves distributing the estate among the deceased's closest relatives, such as their spouse, children, or other family members, in a predetermined order.

**In British Columbia**



If a person dies without a will (intestate) in British Columbia, their estate will be distributed according to the laws of intestacy under the Wills, Estates and Succession Act. This typically means that the deceased person's assets will be divided among their spouse and children, or if there is no surviving spouse or children, to other relatives according to a specified order of precedence.

When there is no spouse or children, the priority order will be distributed as follows:

1. Parents
2. Siblings
3. Grandparents
4. Siblings of parents and cousins
5. Great grandparents
6. Descendants of great grandparents (second cousins).

**In Alberta**



If a person dies without a will in Alberta, their assets will be distributed according to the laws of intestacy. The laws of intestacy dictate who will inherit the deceased person's property based on their relationship to the deceased and the value of the estate. In most cases, the deceased person's spouse and children will inherit their assets. If the deceased person did not have a spouse or children, their assets will be distributed to their next of kin, such as their parents, siblings, or grandparents.

When there is no spouse or children, the priority order will be distributed as follows:

1. Surviving parents
2. Siblings
3. Nieces/Nephews
4. Grandparents
5. Great grandparents

**Types of Wills**

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A per stirpes (this is a Latin word for branch) will refers to a method of distributing an estate among heirs in which each branch of descendants inherits an equal share of an ancestor's property. This distribution method is used to avoid a situation in which a deceased individual's assets pass entirely to the surviving descendants of their surviving child. Instead, the assets are divided among all descendants of the deceased individual.

A per capita estate plan is a method of distributing the assets of a deceased person's estate to their beneficiaries, where the estate is divided equally among all surviving individuals in a specific class (e.g., children, siblings). This method ensures that each beneficiary receives an equal share of the estate, regardless of their relationship to the deceased. This can be contrasted with a per stirpes distribution, which distributes assets to descendants. (e.g., to children of a deceased child).

**Example of a Per Stirpes Will**

Let's say a person named Mark has three children - Sally, Tom, and Jane. Mark writes his will in such a way that if any of his children predecease him, their share of the inheritance will be distributed among their own children (i.e., Mark's grandchildren) "per stirpes."

If Sally dies before Mark, but has two children of her own, then each of Sally's children would receive one-third of Sally's share of Mark's inheritance. This way, the branch of the family represented by Sally's children still receives the same overall share of the inheritance as if Sally were still alive.

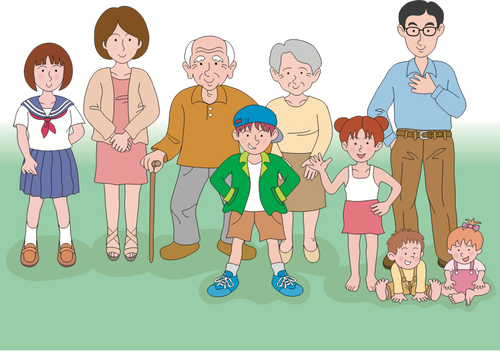
**Example of a Per Capita Will**

If the deceased had two children, their estate would be divided equally between the two children, rather than specifying a specific item or amount to each child. This type of will is recognized under Canadian law and can be used to distribute property, money, or other assets.

**What to look for when Reviewing Your Member’s Estate Plan:**

1. Valid execution: Ensure that the will was signed and witnessed in accordance with the requirements of the jurisdiction where it was executed.
2. Identification of Beneficiaries: Ensure that the beneficiaries named in the will are clearly identified. Ask if all the beneficiaries are still alive. Ask if any of the beneficiaries named may have special needs.
3. Distribution options: Are the beneficiaries named as per stirpes or per capita. Many members will not understand the difference between the two options.
4. No Inconsistencies: Ensure that there are no inconsistencies in the will or between the will and any prior wills or codicils.
5. Signature and Dating: Ensure that the will is properly signed and dated by the testator and witnesses.
6. Codicils: If there are any codicils, ensure that they are consistent with the will and executed in a manner similar to the will.

**Estate Planning with Second Marriages and Multiple Families**

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Estate planning is an essential process for anyone, but it can become more complex in the context of a second marriage.

If the spouse has children from previous marriages, it is important to consider their needs for an estate plan. This may include setting up trusts or establishing guardianship for minor children.

Here are some items to consider for your members.

1. Identify goals. Identify the goals of establishing a trust. The current spouse will need to be provided for as well as ensuring the children will inherit assets as per your direction. This will also protect any claims from a spouse’s future creditor or claims that may be made during a divorce.
2. The member will need to choose a trustee. This can be a professional trustee such as Concentra Trust (now EQ Bank) or a family/friend that can handle the responsibilities of a trust.
3. Your member will need to specify the terms of the trust including how the assets will be distributed, who the beneficiaries are and under what special circumstances can distributions be made.

**Other Considerations**

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In addition to the solicitor instructions regarding the will and Power of Attorney documents, your member will want to consider attaching the following information to their will. Note, these items will not be part of the will, but they should be near the will location.

* Digital Assets. These are items such as access to social media accounts, email accounts as well as the access to any photos that may be saved in an electronic device or on a cloud storage account. Many people accumulate points on their credit cards, and it is important to document the origin and the intent with the points so they may be utilized. Many credit card companies allow points to be redeemed by the estate for up to 90 days after death.
* Instructions to Executor.
* Copies of all investment statements. Your appointed executor will have the task of collection of all the relevant data so it would ease the administration if a current copy of your statements was immediately at their disposal.
* Funeral Instructions. The funeral instructions may include the location of the funeral, an invited guest list, any songs, or hymns, as well as a general budget. Your burial wishes should also be included in the instructions.
* You will also want to make sure the executor knows the exact location of the will.
* Your will should be registered with Vital Statistics (in British Columbia). This will allow your executor to know if you have a current will as well as the location of the will.

**Summary**

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All members should have an estate plan to ensure that their assets are distributed according to their wishes after they pass away, and to minimize the stress and financial burden on their loved ones. Here are a few reasons why estate planning is essential for our members:

1. By creating an estate plan, you can ensure that their loved ones are taken care of. They can choose who will inherit their assets, how much they will receive, and when they will receive it. A guardian can also be named for their minor children.
2. Minimizing taxes: Estate planning can help minimize taxes and maximize the amount of the estate that goes to heirs.
3. Avoiding family conflict: An estate plan can help avoid family conflict by clearly outlining the wishes for the distribution of assets. This can help prevent disputes between family members and minimize the chance of litigation.

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