

Your Will Is Your Friend

Estate planning can be an integral part of everyone's financial plan, but to ensure wishes are carried out as intended, an effective will needs to be created.

Many people don't consider making charitable contributions through their estates because of concerns about depriving their heirs, or the mistaken belief that this is an option only for the wealthy. In fact, people of modest means can actually create a legacy by planning, even if they own little or no estate when they pass away.

The reality is that everyone eventually donates a substantial portion of their assets when they die; by not planning gifts, the government automatically becomes an heir.

Income taxes on capital gains and RRSPs or RRIFs can send as much as a third of assets to Revenue Canada.

Bequests made to charities in a will, can help an estate obtain substantial tax credits and reduce or even eliminate taxes otherwise owing at death.

An accurate and properly prepared will can help the testator (the maker of the will) avoid or defer some or all of these taxes. Leaving gifts to a registered charitable organization, such as the hospital, library or church will reduce taxes upon death.

Anything directed to a registered charity through a segregated fund, annuity or life insurance policy could bypass a will, reducing probate costs while still creating a tax credit that can reduce taxes on other assets.

In essence, probate fees are another form of taxation. Probate is the fee charged by the government to settle the estate in court. The general practice is to charge a dollar value per \$1,000 of estate, for example \$14 per \$1,000.

A skilled advisor specializing in estate planning, working with an experienced lawyer, can help expand a person's giving opportunities using a variety of tools ranging from trusts to annuities and life insurance.

So, not only does planned giving benefit the community, but it can even preserve the estate for potential heirs.

Nearly five in 10 Canadians have not taken advantage of their right to make a will.

Dying "in testate" means assets are distributed according to a rigid formula decided upon by the government. Everybody could lose - spouses, family, relatives and charities; the recipients of services provided by some of the over 80,000 charitable organizations in Canada.

Many Canadians assume that a will provided by the government is fair, equitable and no-nonsense. However, they forget that the law was written in a general way, and that legislators could not anticipate the infinite number of circumstances presented by millions of Canadians. Without a will, in essence, the government assumes the role of the deceased and decides how the estate is to be distributed.

Making a will is not complicated. Purchase a "will kit," or hire a lawyer to prepare a will for a reasonable charge and keep a copy in his or her files, just so it's safely stored and obtainable.

Using a lawyer assures the will is properly prepared and there are no grey areas that might be subject to interpretation after the person is deceased.

There are three decisions to make when preparing a will:

- * Name the executor. The executor will manage and distribute the estate as directed in the will. Remember that without a will the government will appoint an executor, perhaps not someone you would have selected yourself.

- * The second decision is to select a guardian for any minor children, in the event your spouse does not survive you. The courts take into account the wishes of the deceased as stipulated in the will. Without a will, the courts cannot know your intentions.

- * Finally, make the decision on how to distribute portions of the estate among family, friends, and favoured charities. This is known as planned giving.

A will is a privilege and a right; make the most of it.

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