

Cooperative Memorial Society

Estate Planning Worksheet

This worksheet is designed to guide you through the essential questions and considerations of estate planning, helping you create a comprehensive plan that reflects your wishes and protects your loved ones.

What is Estate Planning?

Estate planning is the process of arranging for the management and distribution of your assets upon your passing, ensuring that your wishes are respected and your loved ones are protected. While creating a will is a key component, proper estate planning in Canada involves much more. This includes tax planning, life insurance, funeral preparation, charitable giving, beneficiary designation, and making arrangements for minors. It also involves preparing for end-of-life care and potential incapacitation through documents like an enduring power of attorney and a personal directive.

What is the Difference Between a Will and an Estate Plan?

A will is a legal document that details how to distribute your possessions after you pass away. It includes the appointment of an executor – the person responsible for administering the estate and splitting up the assets among the designated beneficiaries.

A will is part of an estate plan, but it is not the entire plan. An estate plan consists of several components and covers the will, inheritance planning, tax minimization strategies, end-of-life care, and post-mortem wishes.

Do You Need a Lawyer for Estate Planning?

One of the many advantages of hiring a lawyer for estate planning in Canada is access to specialized legal knowledge and strategies. Estate planning attorneys are highly trained in estates and can suggest strategies to safeguard your property, protect your loved ones upon your passing, and minimize taxes on wealth transfer.

Canadians with dual citizenship should particularly consider hiring an estate planning attorney for cross-border estate planning advice. There are added complexities and tax planning issues for dual citizens, making professional guidance especially important.

Can I Do Estate Planning Myself?

While it might be tempting to do estate planning yourself, it is not ideal. A proper estate plan is best left to professionals, especially if you are a high net worth individual with a complex estate. Hiring an estate planning lawyer can save time, money, and avoid the hassles associated with the probate process.

Bypassing professional estate planning can leave your loved ones with unnecessary burdens upon your passing.

How to Find a Good Estate Planning Lawyer

One of the best ways to find a good lawyer in Canada is through a referral from a close friend or trusted advisor. A recommendation from a friend or family member indicates that the lawyer was trustworthy and knowledgeable.

Wealth advisors often work closely with estate planning lawyers as part of their holistic approach to money management and can provide contact information for experienced lawyers.

The Cost of Estate Planning

The price of an estate plan depends on the complexity of your financial situation. High net worth individuals often require more extensive planning, which comes at a higher cost. Those with fewer assets may need less tax planning, reducing the overall cost. Despite the initial expense, proper estate planning can preserve your assets and minimize costs in the long run.

What is a Trust Agreement in Estate Planning?

A trust agreement is a legal document outlining the terms of a trust, its beneficiaries, and the trustees. Assets transferred to the trust are no longer your individual property but are held "in trust" for the beneficiary by the trustee.

Types of Trusts:

1. Living Trust: Created before your passing and effective during your lifetime.
 - Revocable Trust: Can be changed at any time.
 - Irrevocable Trust: Cannot be changed after creation.
2. Testamentary Trust: Created upon your passing, as specified in your will.

Examples of Trusts in Canada:

- Discretionary Trusts: Trustees decide how much beneficiaries receive and when.
- Fixed Interest Trusts: Trustees have no discretionary power over asset distribution.
- Alter Ego & Joint Partner Trusts: Set up during your lifetime.
- Testamentary Spousal Trusts: For the benefit of a surviving spouse or common-law partner.
- Family Trusts: Often used in business succession.
- Insurance Trusts: Directs the use of insurance proceeds after death.

Is it Better to Have a Will or a Trust?

A trust offers the benefit of avoiding probate, as assets held in the trust are not part of the estate. However, a will covers many other aspects of the estate and is necessary for comprehensive estate planning.

Estate Taxes in Canada

In Canada, there is no inheritance tax, but your estate must pay taxes, including capital gains tax, on the deemed disposition of assets at the time of death. Your executor is responsible for filing the final tax return.

How to Avoid Paying Estate Tax

While taxes are inevitable, you can minimize the amount your estate will pay through strategies like gifting early, working with tax advisors, and using trusts. Professional advice is essential to implement these strategies efficiently.

How Should I Store Estate Planning Documents?

Your estate planning documents contain personal financial information and should be stored securely, such as in a locked filing cabinet or home safe. While a safety deposit box can be used, it may cause accessibility issues for your executor. Ensure your executor and immediate family know how to access these documents.

What Happens if You Die Without an Estate Plan in Canada?

Dying without a will (intestate) means your assets still pass to your beneficiaries, but the process is governed by provincial law, which may not align with your wishes. Dying without an estate plan leaves your family with additional burdens and may result in higher estate taxes.

Legal Documents Needed for Estate Planning

1. **Will:** Outlines asset distribution and appoints an executor.
2. **Enduring Power of Attorney (EPOA):** Grants authority to another person while you are alive, including:
 - **Financial POA:** Manages legal decisions, finances and property.
 - **Personal Directive:** Covers medical decisions and end-of-life care.
3. **Trust Agreements (if applicable):** Defines the terms of a trust.

How to Create an Estate Plan in Canada: A Checklist

1. **Meet with key individuals:**
 - Executor (individual or corporate)
 - Close family and doctor (for personal and health care decisions)
 - Estate planning lawyer
 - Accountant/tax specialist

- Financial planner
 - Wealth management advisor
 - Insurance specialist
 - Business succession advisor (if applicable)
 - Legal guardian for minor children (if applicable)
2. Create and/or update legal documents:
 - Will
 - Enduring Power of Attorney
 - Personal Directive
 3. Ensure beneficiary designations are up-to-date.
 4. Review life insurance needs.
 5. Consider cross-border estate planning if applicable.
 6. Evaluate additional estate planning strategies:
 - Estate freeze
 - Family foundation
 - Trusts
 - Charitable giving
 - Gifting
 7. Confirm survivorship rules on pensions.
 8. Discuss funeral preferences with your family. Complete funeral and burial plans.
 9. Compile all materials into “final arrangements” and inform loved ones where to find it.

Key Insight:

Estate planning in Canada goes beyond just creating a will. Proper planning can ease the burden on your loved ones and ensure that your assets are passed on in a tax-efficient manner. Revisit your estate plan regularly, especially after major life changes or updates to provincial legislation. Investing time and money in estate planning now can save your loved ones from unnecessary stress and expense later.

For more information:

Visit the Cooperative Memorial Society at <https://www.coopmemorial.org> or contact us at admin@coopmemorial.org or 403-248-2044 / 1-800-566-9959

