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Estate planning
10 simple steps

Estate planning is about life – both now and in the future. Most important, estate planning is about the lives of your family and loved ones, and the peace of mind you get from preserving their financial security.

When considering estate planning, many Canadians think only of a Will, but a complete estate plan involves much more. This step-by-step guide will take you through effective estate planning. No two estate plans will be exactly alike. Your estate plan should reflect your personal priorities and choices.

Working closely with your advisor and a team of experts, you'll find the estate planning process to be liberating. It will provide you with the peace of mind that comes from knowing your loved ones will not be burdened by resolving your personal and financial affairs.

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Benefits of an estate plan

- Distributes your assets as you intend
- Provides funds to cover funeral expenses, as well as immediate and/or long-term family living costs
- Keeps more of your assets in the hands of your heirs
- Minimizes income tax and probate fees, where applicable; designates charitable gifts
- Documents your personal care preferences, including terminal medical treatment and organ donation intentions
- Identifies who you have chosen to carry out your last wishes and care for your children
- Ensures business continuity for business owners

The rules covering the legal concepts outlined in this brochure vary from province to province. Your advisor, lawyer and possibly a tax professional, will need to apply the most current tax, trust, estate and family laws of your province to your personal situation. After reviewing this booklet, talk to your advisor to determine your next steps.

Take action now

Too often, advisors and estate planning professionals hear, "I wish I'd known about this sooner" from distressed family members. Too few people follow through on estate planning. The "do nothing" option is not in the best interests of your family, your business or other relationships.

As you read the different stories in this booklet, take time to think about how they might relate to you and how you can establish an estate plan that reflects what's most important to you and your loved ones.

Step 1 Consult and retain appropriate professionals

The complexity of your situation will determine which professionals you will need to consult. For most people, this team will include an advisor, a lawyer and a tax planner. You should interview each of these professionals thoroughly before retaining their services, as they will have access to the most intimate details of your life. Your advisor already understands your financial goals and may be able to recommend a lawyer and, if necessary, a tax professional with whom he or she shares a working relationship.

Your advisor's role

- Help you estimate the size of your estate
- Help develop estate goals
- Co-ordinate with other practitioners on your estate planning team
- Perform cost-benefit analysis
- Develop strategies for you to maximize size of estate
- Provide direction on various strategies and their implementation
- Confirm the timely planning and implementation of the plan
- Ensure competent management of assets
- Provide support for you when creating your plan
- Communicate with beneficiaries and help with administration

Your lawyer's role (includes notaries in Quebec)

- Review your estate goals
- Draft legal documents: Wills, powers of attorney and trusts
- Provide direction on various strategies and tactics
- Draft, review and interpret trusts
- Represent the estate in litigation of Wills and estate disputes
- Mediate or arbitrate any estate disputes
- Serve as trustee, executor or agent, if asked
- Assist estate and trust administrators to interpret your wishes

Your tax planner's role

- Assess estate goals from a tax perspective and advise accordingly
- Reduce the tax payable during your lifetime and at death
- Advise on tax implications of various strategies and tactics

Draw up a household balance sheet

Step 2

A household balance sheet is a summary of your financial situation that ultimately determines your overall net worth. Your net worth is the value of your assets (what you own) minus your liabilities (what you owe). If you don't already have one, work with your advisor to develop a household balance sheet.

A household balance sheet helps you:

- Get a snapshot of your financial net worth
- See how vulnerable your family might be to shifts in your circumstances (e.g., in the event of death or disability)
- Understand how risk tolerant and comfortable you are with handling your debt
- Reflect on your lifestyle and consider what is important to you. This will help in long-term financial planning

If you don't already have one, work with your advisor to develop a household balance sheet.

Adding up a lifetime

John and Heather have worked hard during their 25 years together. Now that their three sons are grown and on their own, they want to plan their own future.

Their advisor recently sent them an estate planning questionnaire, which they have been completing. John and Heather calculated their net worth as follows:

Assets		Liabilities	
Home (mortgage paid off)	$450,000	Line of credit balance	$15,000
RRSP – John	$140,000	**Net worth**	**$ 692,500**
RRSP – Heather	$65,000		
Joint investment account	$32,000		
Vehicles	$18,000		
Personal items	$2,500		
Total assets	**$707,500**		

John and Heather didn't think they were wealthy enough to have an estate, and now realize that they must seriously review their Wills and incapacity‡ planning. They intend to make an appointment with John's advisor to discuss these issues, as well as how income tax and life insurance can affect their estates.

‡ Inability to make or convey an individual's own decisions.

Step 3 Determine your life insurance needs

It's important to work with your advisor to match your long-term financial objectives with your insurance needs.

Proceeds from life insurance policies can be used on the following:

Replace income

Your family may lose your income if you die or are unable to work. Insurance benefits can be invested to generate income to replace some or all of the lost earnings.

Pay estate expenses

People often underestimate the cost of funeral expenses, income taxes, estate administration, probate fees and other debts payable by an estate. Insurance policy benefits can ease these burdens.

Leave an inheritance

If you don't own a lot of assets, insurance is one of the best ways to provide for your loved ones.

Key questions

With estate planning in mind, what types of insurance should be considered?

Here are the most common types:

- Whole life insurance can work as an investment and provide a death benefit; it builds a tax-deferred cash value. Premiums are usually higher compared to other types of insurance
- Term insurance has no cash value and is less expensive than whole life insurance
- Universal life insurance combines a term insurance component and a tax-deferred savings or investment component

How much insurance do you need?

Your advisor, lawyer or tax planner can help you define your needs. Ideally, you should try to balance affordability with your beneficiaries' anticipated needs. Consider your debts, income needs, occasional and regular expenses and expected future expenses.

On your death, the proceeds from an insurance policy are paid to the designated beneficiary. If you have minor children, you may want the proceeds to be held in a trust for them.

If you are part of a closely held business where associates are shareholders, insurance proceeds can be used to allow the surviving associates to acquire your interest.

Mark & Laura's story

Besides being a good businessman and savvy investor, Mark is also a smart estate planner. Over his 45 years of investing, he built an RRSP valued at $850,000, a healthy provision for his wife and grown children.

Mark named his wife Laura the beneficiary of his RRSP. On his death, taxable withdrawals can be made from the RRSP to support Laura for the rest of her life. However, if they both died the RRSP would be fully taxable.

As this is Mark and Laura's main asset, the tax due would take a serious bite out of their children's inheritance. As a precaution, Mark purchased a life insurance policy to cover the tax bill, thereby guaranteeing the children would receive the full value of the RRSP.

Draw up your Will

Step 4

A Will is a crucial legal document signed in accordance with specific rules. If you die without one (die "intestate"), provincial legislation will dictate how your assets are divided. In addition, your loved ones will face needless delay and expense in applying to the courts to settle your estate.

The purpose of a Will is to:

- Appoint a personal representative to administer your affairs on death (executor, estate trustee or liquidator)
- Administer and/or pass on assets that have not already been distributed prior to death
- Name a guardian for any minor children. In Quebec, a guardian to minor children is called a "tutor" and the right to appoint a tutor belongs to the last surviving parent
- Express any limits on the use of your assets

Your Will won't become effective or public until your death. Until then, you can change the terms or revoke it completely, provided you are mentally competent. Your Will should be reviewed at least once every three years to ensure it has not been affected by changes in legislation or whenever there has been a change in your personal situation (e.g., marriage or divorce).

There are three types of Wills:

Formal Will

- Typically drafted by a lawyer to ensure your Will is legally valid, meets your needs and does not create any future problems
- Signed by you in the presence of generally two witnesses, each of whom should sign in your presence
- Witnesses should not be your beneficiaries or their spouses; otherwise their bequests may be invalidated

Holograph Will (Not accepted in some provinces)

- Written entirely in your own handwriting and signed by you
- No witness signature is necessary
- Not recommended, as it may create unnecessary legal complications
- Your heirs and the courts may have trouble interpreting your expressed wishes

Notarial Will (In Quebec only)

- Made before a notary
- Signed by you, a witness and a notary
- Kept by notary in special register

Appoint a personal representative

Choosing who will carry out the terms of your Will is one of the most important decisions you will ever make. Your personal representative (called an executor in most provinces, a liquidator in Quebec or estate trustee in Ontario) is responsible for settling and managing your affairs after your death.

This is not simply an honour to bestow on a family member or a friend; you are selecting the person who will be best-suited and capable to either handle all your affairs, or oversee their administration with the assistance of knowledgeable professionals. You may want to discuss how they will be compensated for their service. The appointment may be an imposition as this person must fulfill various functions:

- Commit time to carry out all duties and responsibilities; they may need to take time off work or sacrifice other personal responsibilities
- Deal with your family members, perhaps for a number of years if estate assets are not immediately distributed

Make sure you and your executor fully understand the responsibility you are entrusting to them. It's an appointment for life or until removed by the court.

Elaine's story

Jeff and Elaine, living in Ontario, were married for 15 years and had two healthy children. After Jeff's death, Elaine was not concerned about her financial situation – their house was fully paid for, Jeff's investment portfolio was worth $450,000 and there was an insurance policy that named his estate as beneficiary. Yet upon contacting her lawyer, Elaine discovered Jeff had never prepared a Will.

With no Will, an application had to be made to the court to appoint an administrator, triggering $11,000 in legal and administrative fees. Elaine was entitled to inherit the first $200,000 of Jeff's estate, with the remainder to be split equally among her and the two children. She had to sell some of their investment portfolio to pay legal fees and to raise funds for the children's legal shares of the estate. What's more, the investments had appreciated significantly, creating a capital gains tax liability totalling thousands of dollars.

Preparing a Will and instituting some other simple estate planning measures, such as naming Elaine the beneficiary of the life insurance policy, would have changed this situation. Elaine could have reduced legal costs and deferred capital gains payments, while easing the impact of her and her children's sudden loss.

Executor's responsibilities

- Locate and review Will
- Make funeral arrangements
- Solicit professional counsel
- Notify beneficiaries of their bequest
- Secure estate assets
- Open estate account
- Submit Will for probate
- Advertise for estate creditors
- Convert residual estate assets
- Pay financial obligations
- Complete final tax returns/obtain clearance certificate
- Distribute inheritance
- Make trust arrangements
- Prepare estate accounts
- Close estate accounts

With these responsibilities in mind, consider the following character traits when appointing your executor:

- Integrity and good judgment – Will the person be able to act fairly in dealing with family members?
- Willingness – Is he or she willing to take on the commitment?
- Time, patience and organization skills – Will he or she be able to follow up on all of the details, either directly or with assistance from professionals?
- Accessibility – Will he or she be around to talk to family and advisors? Does he or she live nearby?
- Familiarity – Can he or she deal with the family dynamics?
- Legal and financial awareness – Will he or she understand where professionals may be needed for investment, tax and legal advice?

Many people appoint more than one executor. Some people appoint a family member because of their understanding of family dynamics, and a professional to handle administrative and legal aspects of the estate settlement. It is a good idea to name an alternate to serve in the event your appointed executor(s) cannot. Some people prefer the services of a corporate executor (trust company or law firm).

Reasons for choosing a corporate executor include:

- You do not want to burden family members or friends
- You do not know anyone who has the expertise to be your executor
- You do not have immediate family members who live close by, or do not want to have them involved
- You anticipate potential family strife
- You anticipate struggles for control over certain assets or business interests
- Your first choice for executor is unable or unwilling to undertake the task
- You want to make sure your wishes are carried out, if you and your spouse die in the same tragedy

Appoint a guardian

A guardian (or "tutor" in Quebec) is the person who will become the legal custodian of your minor children in the event of your death. Choose someone you trust, and who understands what you think is best for your children. The appointment of one or more guardians in your Will may only have a limited time effect. An application may still have to be made to the courts to formally appoint the guardian.

Parents should openly discuss their desires with the person or people they want to appoint to ensure the appointee(s) are willing to take on the responsibility. Remember that a good choice for a guardian when your children are younger may not be the right choice when they are teenagers.

In Quebec, tutorship grants an individual parental authority over the minor personally, and the property of a minor, unless these duties are specifically divided.

Establish power of attorney for property

Step 5

At some point in the future you may be unable to make your own financial or personal care decisions. But you can pre-arrange for someone to make these decisions according to your wishes by having your lawyer draft separate powers of attorney for property and personal care.

A power of attorney for property gives one or more people the authority to manage your financial affairs if you are unable to do so. The person you appoint should be someone you would literally trust with your life, such as the executor appointed in your Will.

There are two types:

- General, which covers all aspects of your financial affairs
- Limited, which defines the scope of powers given to your designate(s)

If prepared properly, a power of attorney for property will remain valid if you become mentally incapacitated. All powers of attorney terminate on death, the appointment of a committee or guardian by a court order, or on the death of the person you have appointed as attorney. You can revoke a power of attorney at any time, as long as you are mentally competent.

In Quebec, a power of attorney for property is called a "mandate given in anticipation of the mandator's incapacity." This gives similar powers to the "mandatary" as outlined above for an "attorney."

A power of attorney for property gives one or more people the authority to manage your financial affairs if you are unable to do so.

Taking care of the children

When Richard and Sandra married, it was the second marriage for both. Richard's daughter Kari is 7 and Sandra's son Daniel is 11. Richard and his ex-wife Diana share custody of Kari. Sandra has sole custody of Daniel, whose father David has not been heard from in two years.

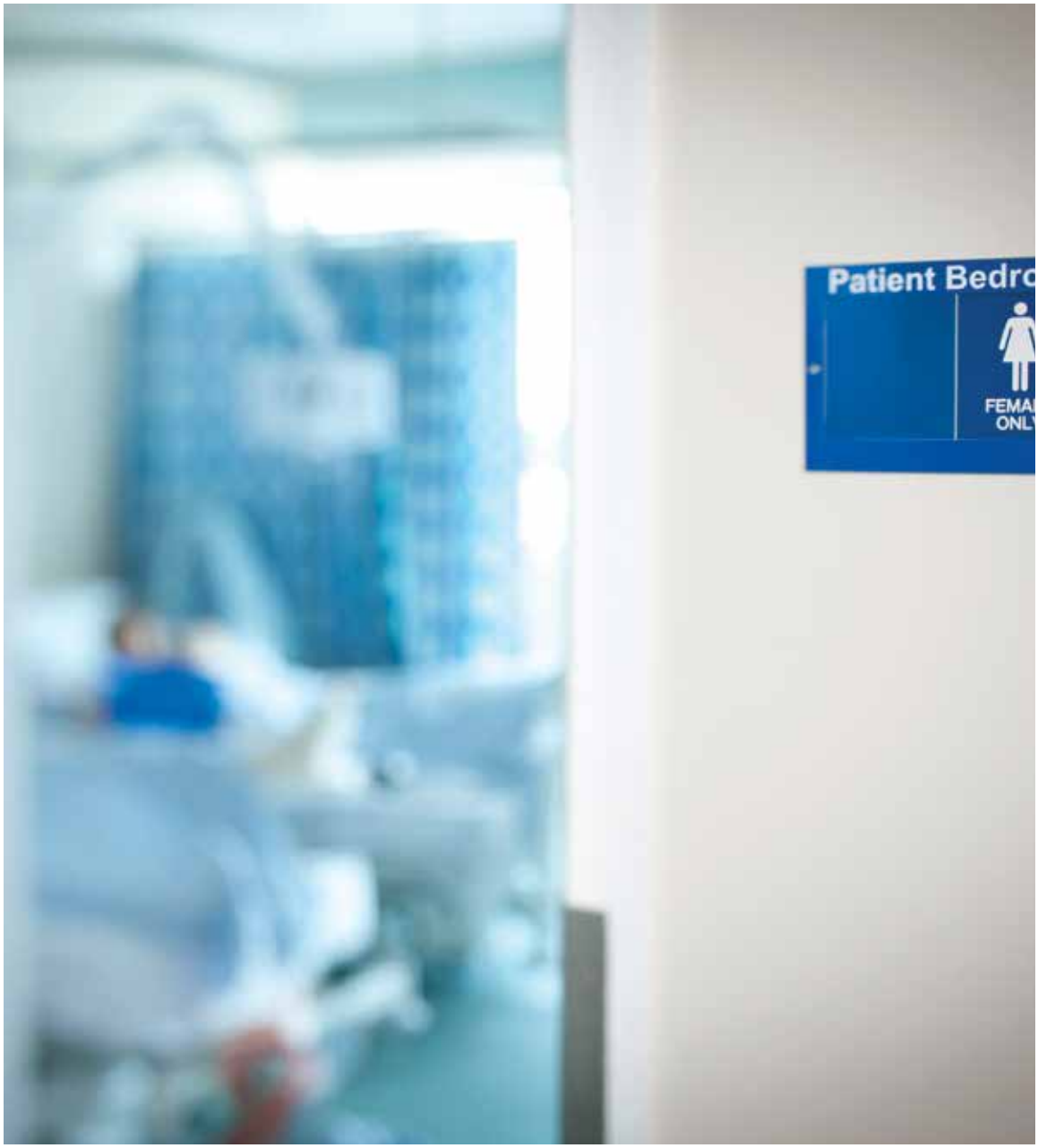
Richard and Sandra recently met with their advisor to review their estate plans. They were surprised to learn that their existing Wills may no longer be valid because they were drawn up before they married. They were alarmed to learn that unless there was a guardian named in valid Wills (known as "tutor to the minor" in Quebec) there was a possibility that Kari and Daniel could be separated and claimed by their surviving parent. Although this was not a big issue for Richard, Sandra was concerned that Daniel might have to live with a father he did not know.

With help from their advisor, Richard and Sandra met with a legal consultant to discuss the best way to ensure the future of their children.

Step 6 Establish power of attorney for personal care

When someone is seriously ill, medical and lifestyle decisions often must be made quickly; hence, one or more family members are often granted this power of attorney to make decisions for you.

Power of attorney for personal care includes direction for your health care, nutrition, shelter, clothing, and safety issues, as well as your wishes from a medical perspective. A lawyer can help you prepare this and advise you of any limitations that may apply.



Minimize taxes and administration fees

Step 7

Your estate may encounter certain obligations for income tax and probate fees on your death, which may reduce the proceeds intended for the beneficiaries of your estate. If any part of your estate must go through probate, the entire estate value may be subject to probate fees.

Keep it in the family

There are ways to distribute assets to your heirs outside of your estate, in order to minimize income tax and probate fees payable. The key is to reduce the value of your estate. The simplest way is to ensure you have designated beneficiaries whenever possible so that assets do not form part of your estate.

If a beneficiary is named, your financial institution may be able to transfer assets without your executor filing for probate. Keep your beneficiary designations up to date, as assets are distributed according to the last beneficiary designation on record. If your spouse is your beneficiary, consider adding an alternate beneficiary to cover the possibility that your spouse does not survive you.

Here are some other estate planning options that may apply to your circumstances:

Establish joint ownership with right of survivorship

In this case, property passes to the survivor by law, rather than through the Will. Since jointly held assets do not form part of the first joint owner's estate, they are excluded from probate, thus reducing overall probate fees.

Under Quebec law, accounts may only be opened as "tenants in common." The right of survivorship is not legally recognized.

Leverage insurance

Some insurance products provide a straight-forward alternative for minimizing probate taxes. GICs issued by insurance companies are technically annuities and are eligible to be paid directly to designated beneficiaries, rather than passing through your estate, eliminating probate fees on the GIC.

You may want to consider additional life insurance to cover income taxes, probate fees, administrative costs and other liabilities payable at death.

Life insurance solutions, however, are contingent on the individual's age, health and insurability, as well as the ability to pay the annual premiums.

Pre-arrange your funeral

Anyone who has arranged a funeral knows the stress, confusion and potential for added costs that can result from last-minute preparations. Pre-arranging can not only reduce costs, but allows for family input, ensures your wishes are understood and relieves family members from having to make decisions at a difficult time.

If you have pre-arranged your funeral, make sure you tell your executor and family members

Minimize taxes payable on the estate

Income tax can be the single greatest liability on the household balance sheet. Where assets are not transferred to a surviving spouse or common-law partner, the realized value of an estate may be substantially less than anticipated due to taxes payable on the estate prior to distribution.

The two largest tax bills generally result from the deemed disposition of both registered and non-registered investments. In the case of an RRSP or RRIF account, the balance is paid out and is taxed against the estate as income.

For non-RRSP investments, taxes must be paid on all the unrealized capital gains. Significant gains may also be realized on property other than an individual's principal residence (e.g., a family cottage).

Establish a living family trust

Transferring assets to a living trust while you are alive removes them from the estate, reducing the value of the estate subject to probate fees. You maintain control over the assets transferred to the trust. There are revocable trusts (called "alter ego" or "joint partner" trusts) that are available to people who are 65 years of age or older.

The planning strategies referred to here may have adverse tax and legal consequences and may not reflect your financial goals. Please obtain financial and legal advice before proceeding.

Be sure to designate a beneficiary for your:

- Registered retirement savings plans (RRSPs)
- Registered retirement income funds (RRIFs)
- Annuities
- Life insurance policies
- Insurer-issued guaranteed investment certificates (GICs)

In Quebec, you may designate a person as a beneficiary of an RRSP, RRIF or financial instrument – for example, GICs or segregated funds – other than by Will only if it qualifies as an annuity or life insurance policy.

Step 8 Keep track of accounts and important information

One of the most difficult roles for an executor and family members is gathering the information required to settle the estate. You can eliminate this concern by centralizing all household information, from birth certificates, passports and other legal documents, to bank accounts and insurance policy numbers, to utility account details. Once you have documented your important information, store a copy in a safe place and let someone close to you know where it is.

Communicate your plans

Step 9

After you have developed your estate plan, be sure to communicate it to a family member or close friend whom you can trust, and who is capable of working with your advisor to execute your estate plan.

Not only is it important to share your plans, but it is very helpful to document your estate plan to reduce the risk of any potential misunderstandings.

Ensuring that those affected by your plans know what is expected of them and where critical information is kept is essential to the smooth execution of your estate plan.

Not only is it important to share your plans, but it is very helpful to document your estate plan to reduce the risk of any potential misunderstandings.

Update your plan to protect your beneficiaries

Changes in your personal circumstances can have a significant impact on your estate plan. In a Manitoba court case, John‡ and Mary‡ were married in June 1982, but divorced in 1994. While married, John opened an RRSP and designated Mary as beneficiary of the plan. Mary also opened a spousal RRSP for John, on which Mary was designated as the beneficiary. At the time of the divorce, a property settlement was made, but John did not change the beneficiary designations on either RRSP.

John died in 1994 and his Will left detailed instructions about the distribution of his estate. Due to the beneficiary designations, the proceeds of the two RRSPs were paid to Mary. Because there was no spousal rollover available, taxes of $15,500 were payable by the estate. John's estate representatives brought legal action to have Mary pay the taxes triggered by the deemed disposition of the two RRSPs.

After two years in court, the decision was made that Mary was entitled to the full proceeds of the two RRSPs, and John's estate was liable for the taxes. If John had updated his beneficiary designations, the outcome would have been much different.

‡ Their names have been changed.

Step 10 Review and update regularly

Review and, if necessary, update all information at least once a year. By updating your estate plan, you'll get a snapshot of your financial situation on an annual basis. This gives you the opportunity to trace your progress and, if need be, to revise your financial plan to achieve your goals. This should include a review of your company's benefit statement for coverage and beneficiary designations for life insurance, RRSPs and pensions.

More information

The following pieces can help you broach delicate financial topics with your family:

- Estate planning: 10-step checklist
- Taking care of your children: Guardianship
- Choosing a guardian

You may find the following materials helpful in the estate planning process:

- Death and taxes
- Disability tax and estate planning
- Tax planning using alter ego and joint partner trusts
- In-trust accounts
- Incapacity – planning ahead helps
- Probate planning to minimize estate costs
- Structuring an effective Will
- Understanding your insurance needs
- Planned charitable giving
- Joint accounts
- Inter-vivos gifting to minimize estate costs
- The role of an executor: What you need to know
- Estate Planning – Your estate record keeper
- Caring for your aging parents

For copies, please contact your advisor, call an Invesco representative at **1.800.874.6275** or visit **www.invesco.ca**.

Recommended reading list

Dueck, Walter and Esther, Family Documents: what they are, where they are; Waterside House Publishing, 1997.

Gray, Douglas and Budd, John, The Canadian Guide to Will and Estate Planning; McGraw-Hill Ryerson Limited, 2000.

Olkovich, Edward, The Complete Idiot's Guide to Estate Planning in Six Simple Steps for Canadians; Prentice Hall Canada, 2000.

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Foster, Sandra E., You Can't Take It With You: The Common Sense Guide to Estate Planning for Canadians. Third edition; Toronto: John Wiley & Sons, 1999.

Experts consulted

Invesco would like to acknowledge the following individuals for their assistance in preparing this brochure:

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Invesco and your financial future

Complete financial planning isn't just about choosing investments. It should be about what you want out of life. Once that's clear, your advisor can help you match your investments to your needs.

We know that some of life's crises can't be avoided, but we believe that talking about money matters and taking control of one's finances can help eliminate the worry that can result when these matters are neglected.

With a broad range of products to reflect your evolving financial needs Invesco is one of Canada's largest investment management companies. We recognize that the investment decisions you'll make during your lifetime can be challenging. As a result, we're committed to working closely with advisors to help you reach your unique life goals. Part of that commitment involves producing materials such as this. We hope you will find them useful.

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