

Your Estate Plan

The legacy you leave for your loved ones

You decide on the kind of legacy you leave. Your loved ones can be left to struggle with dozens of questions and legal issues and paying unnecessary taxes. Or you can create an estate plan that will ensure your assets are passed along with no problems and minimal taxes.

Begin your browsing here:

- [Its not as difficult as you may think](#)
- [Strategies for transferring assets](#)
- [Avoid the family squabbles](#)
- [Pre-Planning to avoid grief](#)
- [Be prepared for incapacity](#)
- [Insurance as an estate tool](#)

It's not as difficult as you may think

Many people put off making an estate plan because they think it's going to be too difficult and time-consuming. Well, it will take a little time and effort, but it's really not all that bad. And when you consider the end result, it's well worth it.

The hardest part is getting started. Once you do begin, the first thing you have to do is prepare an inventory of your assets and liabilities. This will give you an idea of your net worth. Plus you have to gather all the important papers and documents that could be relevant.

Your next step is to think about your goals and objectives in creating your estate plan:

-Who are your beneficiaries?

-How will you divide your assets among them?

-How will the assets be distributed, i.e. in a lump sum, either right away or at a later date or through payments from a trust?

-How will you deal with significant assets, such as a family business or second residence?

These are just a few of the kinds of issues you'll have to consider. And before you make very many decisions, it makes sense together the family for a group discussion.

So now you know where you stand. You know your net worth and you know what you want to do with it. Your next step is to create a plan of action to achieve your objectives and this is where it can make sense to get professional advice.

A proper Will and a Power of Attorney and a Living Will are always recommended, regardless of the size or complexity of your estate. A Living Will, although not part of your formal Will, incorporates written instructions that become effective when you are no longer able to express your own wishes and must depend on others to do so for you. An insurance policy can also be used in several ways as an effective estate-planning tool.

Strategies for transferring assets

1. *Wills* – The cornerstone of any estate plan and the most common method for assets to be transferred. The main purpose of a Will is to describe how you want your assets to be distributed.

2. *Joint ownership* – Registration of assets in joint ownership is one of the simplest ways to transfer assets. Joint Tenancy with Right of Survivorship*, when one party dies, ownership is automatically transferred to the surviving party. Although useful for avoiding probate taxes, other tax and legal complications can arise.

*Residents of the province of Quebec cannot use a Joint Tenancy With Right Of Survivorship agreement in order to avoid or minimize probate taxes since an automatic right of survivorship does not exist under Quebec law.

3. *Gifts before death* – Without doubt the easiest way to transfer assets is to give them away while you're alive. While gifting to charitable causes can lead to tax benefits, other gifting can create tax liabilities.

4. *Testamentary trusts* – A testamentary trust takes effect at death and becomes part of the Will. It allows ownership of assets to be transferred while control of the assets is determined by the provisions of the trust.

5. *Living trusts* – A living trust is created while you are alive and there are many reasons why they are used. But they serve the same basic purpose of transferring ownership of assets while retaining control.

Avoid the family squabbles

The purpose of an estate plan is to provide comfort and security for one's family. But sometimes the opposite can result. If disagreements arise over terms of the estate plan, the end result can be worse than having no plan at all.

It's not uncommon for estates to be challenged by unhappy family members. People may feel slighted or there may be confusion because of badly worded clauses or incompletely expressed intentions. And sometimes what was once a good and fair provision in a plan can become out-of-date over time.

The delays caused by challenges can run into years and the legal costs can severely deplete the estate, leaving little for the beneficiaries but bad feelings and damaged relationships.

That's why your estate plan should reflect a mutual understanding of how you and your family see things. A good first step toward achieving that is to hold a family gathering and get everyone involved in the creation of the plan.

Before the meeting, let everyone know what you think the plan should be like and ask for feedback. Encourage open and honest communication among family members and keep in mind that money is a sensitive topic and when people discuss it, they often mask their true feelings.

Pre-Planning to avoid grief

No one likes to talk about his or her own funeral. Logically, we know it's going to happen someday but emotionally, we just don't accept it. The problem is, when you don't plan for it now, you can create a difficult situation for those you leave behind.

The death of a loved one is one of life's most stressful situations. In order to cope, people should be allowed to mourn and express their grief.

Unless there is a plan, loved ones are not able to do this. At a time when they should be mourning and comforting each other, they'll be involved in making decisions about the details of the funeral.

They will have to search out all kinds of information and make dozens of decisions about the arrangements. For example, they'll have to:

- Gather data such as citizenship, date and place of birth, name of spouse, father's name and birthplace, mother's maiden name and birthplace, names of sisters, brothers, children, grandchildren, names of pallbearers, etc.
- Decide on funeral home, cemetery, and dozens of details like place of service, time of service, type of flowers or in lieu of flowers, memorial donations, clothing, music, readings, eulogy, etc.
- Collect Will, birth certificate, cemetery deed, social insurance number, citizenship papers and property deeds.
- Arrange for payment of funeral services and merchandise, cemetery, clergy, flowers, outstanding bills, etc.
- Providing notifications to doctors, cemetery or memorial park, friends, employers, insurance agents, financial planners, and newspapers, credit cards, banks, etc.

And there's much more. To bear the responsibility for doing all this when you are grief-stricken over the death of a loved one is simply overwhelming.

Pre-arranging your funeral prevents this from happening. It removes the financial and emotional burden from loved ones during a difficult time and spares them the necessity of dealing with many painful details and decisions.

In short, pre-arranging your funeral is one of the most loving and caring things you can do for your family.

Be prepared for incapacity

For your financial affairs – the Power of Attorney

If you're like most people, you probably believe that if you were to become mentally or physically incompetent, your family could simply act on your behalf. Not so. Without a court order or a Power of Attorney*, they could not manage your financial affairs.

*In the province of Quebec, the Power of Attorney is called a mandate. The term 'mandatory' is used in place of 'attorney' and the 'mandator' is equivalent to 'donor'.

Many people believe that a Will is the only legal document they need. They don't think of the possibility that they could become incapacitated due to illness or accident and need their affairs managed on their behalf.

Many people believe that their spouse can automatically assume the responsibility. However, without a Power of Attorney, any financial accounts that are not jointly held could not be accessed by your spouse.

An enduring or continuing power of attorney can solve the problem. It gives your attorney or any other person you designate the authority to manage your affairs. It can be broad reaching in scope, covering all the things you would normally do, or it can be narrow, e.g. limited to bank accounts or investments only. It can also be a simple power of attorney for a limited time, as when you are away from home and require certain matters to be handled.

For your medical care – The Living Will

Also known as a Power of Attorney for Personal Care, a living Will provides instructions regarding your medical care if you were to become incapacitated and unable to state your wishes. It could also indicate the type of medical treatment you may or may not wish to receive.

If you were to suddenly become incapacitated, by a stroke for example, and you did not have a power of attorney, your family would have to apply to the courts to have someone appointed to manage your affairs. This could be an expensive and lengthy process, often taking weeks or even months. Having a power of attorney avoids these expenses and delays.

Although called a power of "attorney", you are free to appoint anyone you desire – an adult child, spouse, good friend, trust officer – it's your choice. You can also appoint two or more individuals and specify if they need to act together (jointly) or if they can act together and separately (jointly and severally).

Simply put, a power of attorney can help make the best of a difficult situation and is an essential part of every estate plan. And of course, as with many of the topics discussed here, it usually is wise to consult with a professional.

Insurance as an estate tool

Insurance can be a very helpful tool in estate planning and can be used in several ways:

Life insurance to protect your estate

You can use life insurance to pay projected estate taxes and protect your estate. Here's how this strategy works.

Let's say you have assets today that are valued at \$200,000. And let's assume that in 20 years those assets will be worth \$500,000. That's a capital gain of \$300,000, half of which - \$150,000 – would be subject to capital gains tax.

If the rate of taxation were 30%, that means the estate would have to pay a tax of 30% on \$150,000 or \$45,000. This could be a difficult burden and might require a loan or selling off of some of the assets.

A better solution would be to take out an insurance policy with a benefit payable of \$45,000 – the expected tax burden. The total cost in premiums of such a policy would be relatively small, for argument sake, let's say around \$5,000.

When you die, the \$45,000 benefit would be paid to your heirs tax-free. They would then use it to pay the \$45,000 taxes on the estate.

This is a very simplified example but it shows how this strategy works. In this case, you spend \$5,000 to save \$45,000 in taxes for a net saving to the estate of \$40,000.

Three types of insurance to protect your financial health

Critical Illness, Disability and Long-term Care insurance are three kinds of insurance that are quickly gaining popularity among our aging population.

The first two – critical illness and disability insurance – are designed to protect your finances if you should become critically ill or disabled.

Thanks to modern medicine, chances of surviving such adversities are getting better and better. But recovery is often lengthy and expensive, involving losses to income and extensive costs for care and treatment. Simply put, you may survive but your finances may not.

If you're like most, you probably believe that insurance for your car, your home, your life and your health is all you need. But without critical illness and disability insurance, you're leaving a gap in your financial security.

Long-term Care Insurance is becoming more popular because more of us are living longer – statistics say we'll probably get to 80 or better. That's the good news. The bad news is that about half of us will need some form of long term care.

Long Term Care Insurance provides a daily benefit or care if you require the services of a long term care facility or professional assistance at home.

It helps you maintain your independence and financial security by giving you the resources you need, even in the face of a serious health setback. At the same time, it gives your children an alternative to them providing you with the care and protects your estate for your beneficiaries.