

## CONSIDERATIONS IN MAKING A WILL

Making a Will is among the most considerate and responsible acts an individual can undertake. It should not be taken lightly, but it is not normally a daunting or difficult task.

In any event, it should not be neglected as it is essentially free insurance against your estate being distributed as someone else sees fit. The costs of probating an estate will greatly exceed the cost of the initial Will preparation.

A properly drafted Will may never need revision, although you will want to review it periodically to be sure. The most important point, however, is that with a Will you decide what happens to your estate and, where minor children are involved, who will take care of them.

With this in mind, here are some things for you to consider before our meeting to discuss your Will:

**Executor:** also known as Personal Representative, will administer the estate and carry out the directions of your Will. You should also name an alternate Executor in case your first choice is unwilling or unable. Ideally, at least one of them should be younger or the same age as you.

**Trustee & Guardian** of any minors. This may be the same person, but does not have to be. In this case, you will want to consider some terms of the trust, especially the age (or conditions) at which it will be turned over to the children. I will be happy to make suggestions if you like.

**Specific Gifts:** Identifiable things to be given to named persons if you still own them at the time of your death. There is no requirement to make a specific gift.

**Monetary Gifts** to individuals or charities. These come after specific gifts from estate resources. There is no requirement to make a monetary gift.

**Residual Beneficiary** - Person or persons who get everything that is left over after specific and monetary gifts. You should also name an alternative residual beneficiary. If your children are the beneficiaries, you should consider what happens if one predeceases you. For example, do you want that share to be divided amongst his or her children?

**Real Estate:** If you own a home, vehicle, or any other real property, you should indicate whether the beneficiary of it is to receive it subject to any mortgage or whether any mortgage is to be paid out. If it is part of the residue, which is normally the case, then any mortgage is not an issue.

**Instructions for Memorial:** If instructed, we will prepare a separate Memo if you have any specific wishes regarding ceremony, etc. but this is not part of the Will and is as well done in your own hand and/or by word of mouth to your loved ones. If you have any questions about planning this, I can refer you to an independent funeral planner.

**Enduring Power of Attorney:** Some people will want to consider empowering a spouse and/or other loved one to make decisions and conduct legal and financial affairs for them especially in the event they become unable to make or carry out decisions.

**Personal Directive:** You may want to consider appointing someone to make health care decisions for you along with an alternative, otherwise this will fall to your next of kin but if there is more than one next of kin, there could be confusion.

**Professional Continuity:** You will want to inform your executor of any professionals you have been working with, such as your lawyer, accountant, investment advisor, so as to encourage continuity and to take advantage of any background information they have accumulated.

**RRSP:** Do you want any RRSPs transferred directly to your spouse or other beneficiary on your death thereby reducing Probate costs? If so, do you want this declared in the Will? It is most important to make this designation with the financial institution.

**Life Insurance:** Do you want any life insurance proceeds paid directly to a named beneficiary on your death thereby reducing Probate costs? If so, do you want this declared in the Will?

**Out of Province Executors:** In the event you intend to appoint someone who does not reside or is likely not to reside in Nova Scotia, you should consider whether you wish to relieve that Executor of the requirement for posting a bond and the cost to the Estate that arises therefrom. In my experience, most people do not want to require this of the Executor and instruct me to draft the Will accordingly. Therefore, I will assume that is your preference unless you tell me otherwise. Let me know if you have any questions regarding this.

**Storage:** It is important to keep your Will in a safe place as there is only one original. I suggest a safe deposit box or other fire-proof receptacle. If these are not to your convenience, you should consider keeping the original other than at your residence – perhaps with your executor or alternate executor.

**Questions:** If you have any questions at any stage, even after your Will is executed, don't hesitate to contact the office. It is not difficult to revise and re-execute.