



## **Wills**

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### **What is a will?**

A will is a legal, written document that sets out how you want your property and possessions to be distributed after your death. A will also names an executor – the person who will look after your estate after your death and make sure your assets are distributed in the manner set out in your will. If you have young children, your will can name a guardian to look after them in the event of your death.

Provincial and territorial law sets out the requirements for a valid will. A formal will generally has to be signed, dated, and witnessed, and the writer must be of sound mind and have reached a certain age (often 18 year old).

### **Why make a will?**

A will ensures that your wishes will be carried out with a minimum of expense and delay after your death. Without a will, provincial or territorial legislation will determine how your assets are to be distributed to your family members.

### **Can a will be changed?**

Yes, a will can be changed as often as you like. However, changing a will is not as simple as stroking parts out and inserting new text. You will need either to create a new will (making clear that the old will is revoked), or add what's called a codicil that sets out the change. Codicils must be signed, dated, and witnessed in the same way as a will.

### **What does an executor do?**

The role of the executor is to represent your interests after your death. This person will be responsible for paying outstanding debts and carrying out the instructions you have left in your will. The executor will also be responsible for filing a final tax return after your death. Factors to consider in choosing an executor include the age and the health of the person, where they live, their financial stability and their ability to manage the concerns of others and be impartial.

### **What is probate?**

To probate a will is to review or test it before a court of law. Probate ensures that the will being used to distribute assets is the "true" last will and testament. Your executor will be required to submit a number of documents to the court registry in order to complete the probate process. Once probate is complete, the executor will receive a formal certificate verifying that the will has been proven. The executor then has the legal authority to distribute the assets as laid out in the will. If the value of the

executor then has the legal authority to distribute the assets as laid out in the will. If the value of the estate is very small, the will may not have to be probated, as some institutions may be willing to transfer small amounts of money or assets directly to your executor.

### **Are some assets dealt with outside the will?**

Yes. If you own property as a joint tenant with someone else, for example, the property will be transferred automatically to the surviving partner after your death. All that is needed is for the provincial or territorial land registry office to receive the death certificate naming the deceased property owner. Then, title of the property is transferred solely into the survivor's name. In addition, life insurance policies and Registered Retirement Savings Plans (RRSPs) allow you to name a beneficiary in the event of your death and these monies are also transferred directly to the named beneficiary upon proof of death.

### **How do I prepare a will?**

Most people will get help drawing up a will. Common options include using a lawyer or getting help from a standardized will kit. In addition to actually drawing up a will, a lawyer can provide advice on ways to reduce the amount of tax paid out in the process of distributing your assets.

Whatever path you decide to follow, there are some basic decisions that you will need to make in order to complete your will. You will need to make a list of your assets and liabilities, determine who your beneficiaries will be (who you will leave your assets to), and choose an executor of your estate.

### **Documentation**

If you wish to prepare information that will assist survivors or the executor of your estate, the following documents could be useful to have on hand:

- will
- birth certificate or proof of citizenship
- social insurance number
- marriage license
- insurance policies
- bank statements
- details of any trust accounts
- deeds to real estate
- vehicle ownership
- list of all assets (property, investments, etc.)
- list of all pension and retirement accounts, including Registered Retirement Savings Plans (RRSPs) and Registered Retirement Income Funds (RRIFs)
- list of living relatives.

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