



Canadian Cancer Society
Société canadienne du cancer

Your Personal Will Planning Guide



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What is a will?

A will is a legal document that sets out your wishes for what should be done with your property and other assets after your death. Your assets and liabilities make up your “estate”. An estate is made up of personal possessions and real property, such as bank accounts, stocks, furniture, vehicles, jewellery, animals, clothing and real estate.

When making a will, you name someone to carry out your wishes. This person is called an “executor”. If you have children under the age of 18, you will want to think about who you would like to care for them in the event of your death. This person is called a “legal custodian” or “guardian”.

Why is a will important?

Each year, thousands of Canadians are confronted with the very difficult task of dealing with the estate of a loved one who has passed away without leaving a will. When someone dies without a will, their property is distributed by law according to a set formula which may not reflect the wishes of the deceased. This situation can result in both a financial and emotional burden for the family.

Although you can leave your estate to anyone you choose, the courts are authorized to review your will and redistribute your estate to ensure that a) your matrimonial or common-law spouse receives the distribution of family property they are entitled to by law and b) reasonable provision is made for the needs of your matrimonial or common-law spouse and/or dependent children.

We suggest you seek advice from your legal advisor to create a valid will that will meet legal requirements and state your last wishes clearly. You may also want to consult with an accountant or financial planner to maximize the value of your estate. This guide is intended to assist you in assembling the information that will be helpful when you meet with professionals to prepare or update your will.

You should only use this guide to gather information for planning purposes and not rely on it for legal or tax advice. The guide is not sufficient to use as a self-help kit or template for a will.

Choosing your executor

Be sure to choose an executor who is able and willing to carry out the instructions contained in your will. The duties of an executor are significant and sometimes require a large commitment of time. Some of these duties are:

- making funeral and burial arrangements
- locating, protecting, listing and valuing all assets
- managing business interests and investment portfolios
- redirecting mail and cancelling subscriptions
- locating all beneficiaries
- obtaining probate of the will (if necessary)
- paying debts and taxes
- keeping a complete and proper estate accounting
- preparing and filing tax returns

Your executor should be trustworthy and competent and available to make decisions on the advice of lawyers, accountants and other professionals. Carrying out the terms of your will may be a short-term or a long-term job. Whoever you choose to be your executor, you should discuss your wishes with them and ensure that they accept this responsibility. By law, executors have a right to be paid for their services from the proceeds of your estate.

If you like, you can name more than one executor to act together as joint executors. Some people choose their spouse, a family member or friend, while others choose a professional. An alternate executor should be named in case your first choice is unable to serve.

I would like my executor(s) to be:

Name: _____ Relationship: _____

Address: _____

Co-Executor: _____ Relationship: _____

Address: _____

Alternate Executor: _____ Relationship: _____

Address: _____

It is the responsibility of the executor to make funeral arrangements. Do you have special instructions you would like followed or have you pre-arranged your funeral?

When should you change or update your will?

Some experts suggest that you review your will every 2 to 5 years. You can and should make changes to your will that reflect changes in your life circumstances. For minor changes to an existing will, you can use a “codicil” rather than rewrite the complete will. There are often legal requirements in changing an existing will and you should consult a professional to ensure that the changes are valid.

Significant life changes, such as the following, should prompt you to review your will with your legal advisor:

- if your marital status changes or if you have been living common-law for 2 years or more
- the birth of a new child, grandchild, or the inclusion of a new dependent
- if your estate increases or decreases significantly
- if you wish to change your choice of executor
- if you wish to change any of your bequests
- a change in province or country of residence

Safekeeping a will

You should keep your will in a safe place where your executor can easily locate it after your death. Take care to protect it from being accidentally destroyed or lost. The lawyer who prepared your will may offer to keep

the original will. You should receive a copy of the original will to keep with your other important papers.

Other important legal considerations

If you become physically or mentally incapacitated at some point, you may want someone else to handle some or all of your affairs. A “power of attorney” is a legal document that allows you to give someone else the authority to make certain kinds of decisions on your behalf. There are several types of powers of attorney – you should seek legal advice about which type suits your needs.

Another important document to consider is a “healthcare directive”. This document tells healthcare providers how you would like to be treated if you are unable to make or communicate decisions about your healthcare or consent to treatment.

If you are the parent of a child under the age of 18, you can choose to name a guardian in your will. If there are 2 parents, the surviving parent obtains custody of the children unless both parents agreed that a guardian could be appointed. It is essential that the person whom you name will agree to assume guardianship.

Before you complete this guide . . .

In preparation for completing the guide, take a few minutes to gather some of the following information:

- address book
- personal and business financial records
- bank account, investment, RSP/RIF statements
- safety deposit box information
- vehicle information
- recent tax returns
- insurance policies
- credit card, loan and mortgage statements

Assets and liabilities

Listing your assets and debts will help you fully consider and plan for the distribution of your estate. The form of ownership determines whether or not the assets can be “bequeathed” in your will. Some assets form part of your estate and are included in your will. Other assets are dealt with outside of your estate and are not governed by your will. These assets will be dealt with separately in the following 3 sections:

1. joint assets and liabilities
2. assets with designated beneficiaries
3. sole assets and liabilities

1.	Joint assets and liabilities
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a. Joint tenancy assets

These assets include property owned by 2 or more people (referred to as “joint tenancy”). Joint tenancy applies to any assets jointly owned by you and your matrimonial or common-law spouse or another joint owner or owners. Assets owned in joint tenancy, such as bank accounts, investments, real estate and companies, are deemed to have a “right of survivorship”, meaning that when one of the owners dies, the asset passes automatically to the other owner. These assets are dealt with outside of your estate and therefore not listed in your will.

List all joint assets that you have under the following headings:

Joint bank accounts

List name of institution, branch address, type of account and account number	Name and address of joint account owner
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1.

2.

3.

Joint bank accounts (cont.)

List name of institution, branch address, type of account and account number	Name and address of joint account owner
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4.

Jointly owned investments or securities

Name of security/investment; brokerage firm name and address; account description	Name and address of joint owner
--	--

1.

2.

3.

4.

Jointly owned real estate or other property

List all real estate properties that you own or have a share in. These will include your residence, vacation home and rental properties.

Address or description of property	Name and address of joint owner
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1.

2.

3.

Joint business interests

Are you a partner or do you have a financial interest in a business? If so, we suggest you consult with your financial and legal advisors.

Name of business:

Type of business:

Address:

Names and addresses of other joint owners:

Business plan in effect?

Plan for the sale or windup of the business?

b. Joint liabilities

These liabilities are debts that you share jointly with your spouse, partner or other co-owner. Often these debts are life-insured so that the debt is cancelled upon the death of one of the debtors.

Loans and credit cards held jointly

Type of liability	Lending institution/address	Account number/life insured?	Approximate balance \$
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1.

2.

3.

4.

5.

Mortgages held jointly

Address of property	Lending institution/address	Maturity date/life insured?	Approximate balance \$
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1.

2.

Joint business debts

Type	Financial institution/address	Personal guarantee?	Approximate balance \$
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1.

2.

Other joint debts (list)

Approximate balance \$

2. Assets with designated beneficiaries
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These assets are also not listed in your will and do not form part of your estate unless your “estate” was chosen as your beneficiary when the asset was established. Upon your death, if you have designated a person to receive the assets, the assets pass directly to your beneficiary and therefore are not subject to probate and executor fees.

RRSPs, RIFs, annuities, pensions

Type of account; institution and address	Name and address of beneficiary
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1.

2.

3.

Life insurance

Type of policy; insurer and address; policy number	Name and address of beneficiary
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1.

2.

Other

3. Sole assets and liabilities

These assets are owned only by you. It is the executor's duty to ensure that any debts are paid and the assets distributed according to your will to the beneficiaries that you designate.

Your estate may require "probate" in order to distribute your assets. This court process verifies that your will is valid, confirms that the will is your "last will and testament" and gives your executor authority to administer your estate and distribute the assets. The probate fee is calculated as a percentage of the total assets in your estate. Executor and legal fees are calculated according to a suggested tariff and are also paid from the proceeds of the estate.

For tax purposes, your assets are considered to have been disposed of at the date of death. This means the possibility that taxes may have to be paid on any capital gains. There are strategies to reduce or eliminate this tax and ensure your estate has sufficient liquid assets to pay tax and any other liabilities. Your estate plan should take these factors into account.

a. Sole assets

Personal bank accounts

List name of institution, branch address, type of account, and account number	Account balance \$
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1.

2.

Safety deposit box information

Branch and address:

Location of key:

Other people who have access to the box:

Where do you keep your important papers?

Investments or securities

Name of security/investment; brokerage firm name and address; account description	Value \$
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1.

2.

3.

4.

Sole ownership of real estate or other property

Address or description of property	Value \$
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1.

2.

3.

Sole business ownership

Name of business #1:

Type of business:

Address:

Business plan in effect?

Approximate value: \$

Name of business #2:

Type of business:

Address:

Business plan in effect?

Approximate value: \$

Personal loans made by you to others

Name of borrower/address	Is the loan documented? Is it to be repaid or forgiven?	Approximate value \$
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1.

2.

Personal property

Description of asset	Approximate value \$
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1. List household goods and furnishings of significant value

2. Personal effects (jewellery, clothing)

Description of asset	Approximate value \$
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3. Vehicles (cars, boats, RVs)

4. Other items (e.g. collections)

b. Liabilities

Loans and credit cards

Type of liability	Lending institution/address	Account number/Life insured?	Approximate balance \$
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1.

2.

3.

4.

5.

Mortgages

Address of property	Lending institution/address	Maturity date?/Life insured?	Approximate balance \$
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1.

2.

Business debts

Type	Financial institution/address	Personal guarantee?	Approximate balance \$
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1.

2.

TOTAL ESTIMATED VALUE OF ESTATE AS AT _____
(date)

Total value of assets (total pages 11–14) \$ _____

Subtract total value of liabilities (pages 14, 15) \$ _____

TOTAL \$ _____

Distributing your estate

After your executor completes a final tax return and pays any taxes that may be owing, your estate is distributed according to your wishes. The distribution may take the form of specific gifts to certain individuals or organizations, cash bequests, residual shares or a combination of these wishes. When planning, some factors must be taken into account, such as your spouse, dependent children, a marriage contract, a separation agreement or a divorce judgment. You may require specific legal advice to address these factors when preparing your will.

Distributing your personal effects

You can direct your executor to sell personal effects and add them to the value of your estate, hold them in trust for minors, distribute them to specific individuals, or a combination of the above. Personal effects include furniture, jewellery, family heirlooms, art work, collections, clothing and vehicles. List personal effects in enough detail that anyone could recognize the item.

Specific personal effects that I wish to leave to individuals:

If there is not enough space, list items on a separate piece of paper and take it to your lawyer with this guide.

Name of beneficiary:

Relationship:

Address & telephone number:

Items:

Name of beneficiary:

Relationship:

Address & telephone number:

Items:

Name of beneficiary:

Relationship:

Address & telephone number:

Items:

Planning cash bequests

Cash bequests (also known as legacies) are a way to benefit relatives, friends and charities. Cash bequests are paid before the residue of your estate is distributed. They usually take the form of a gift of a certain amount of money. When planning cash bequests, consider the possibility that the size of your estate could change substantially over time, and consider whether your estate may have the cash available to fulfill the cash bequests. Also consider that an individual you list now may not be living at the time of your death or the death of your spouse.

Cash bequests to individuals

Full name of individual	Address	Amount of bequest \$
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1.

2.

3.

4.

5.

6.

7.

8.

Cash bequests to charities

After you have provided for your loved ones, you may consider a gift to a charity or other not-for-profit organization. The subsequent tax receipt can reduce income tax payable by your estate. Refer to page 20 for wording that is suitable to use in your will.

Full legal name of charity/organization*	Address	Amount of bequest \$
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1.

2.

3.

4.

* Many charitable organizations have similar names. To avoid any legal issues, please ensure you have the proper legal name and address of the charity.

Residual gifts

After specific personal effects and cash gifts are disbursed, all other assets are liquidated and all taxes, liabilities and expenses are paid. The amount of money that remains is called the “residue”. Since this amount is generally unknown in advance, the residue is usually divided among beneficiaries in percentages or number of shares according to your wishes, e.g. 30% or 1 share.

We recommend you obtain legal advice on this distribution since a number of things can affect how the residue is divided: the desire to create a trust, the impact of tax on capital gains, various provincial laws governing spousal rights and your wishes if the beneficiary pre-deceases you. Your financial or estate planner can assist you with developing a plan that is tailored to suit your loved one’s needs.

Residual gifts

Full name of individual	Address	Residual share of estate – (% or share)
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1.

2.

3.

4.

5.

6.

Residual gifts to charities

Full name of charity/organization	Address	Percentage (%) or share
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1.

2.

3.

4.

Leaving a gift to the Canadian Cancer Society

Gifts made in a will to the Canadian Cancer Society are vitally important to the progress that we are making in the fight against cancer. After providing for your loved ones, a bequest is a long-term commitment to eradicate cancer and improve the quality of life of those living with the disease. You can use the following wording in your will:

1. To leave a cash gift for general purposes:

"I direct my trustees to deliver, pay or transfer the sum of \$_____ to the Canadian Cancer Society – Saskatchewan Division for its general purposes."

2. To leave a residue gift for general purposes:

"I direct my trustees to deliver, pay or transfer ____ (share or percentage %) of my estate to the Canadian Cancer Society – Saskatchewan Division for its general purposes."

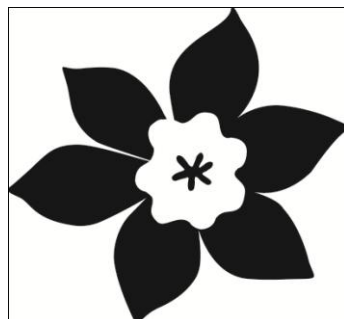
3. To leave a cash bequest for a specific purpose (please contact the planned giving manager in advance to ensure your gift can be used as intended):

"I direct my trustees to deliver, pay or transfer the sum of \$_____ to the Canadian Cancer Society – Saskatchewan Division to be used for the following purpose(s) _____. In the event that circumstances make the specific use of this gift no longer practical or desirable, the Canadian Cancer Society is hereby authorized to make changes in its use in keeping with the spirit and general intent of the gift."

4. To leave a residue gift for a specific purpose (please contact the planned giving manager in advance to ensure your gift can be used as intended):

"I direct my trustees to deliver, pay or transfer ____ (share or percentage %) of my estate to the Canadian Cancer Society – Saskatchewan Division to be used for the following purpose(s) _____. In the event that circumstances make the specific use of this gift no longer practical or desirable, the Canadian Cancer Society is hereby authorized to make changes in its use in keeping with the spirit and general intent of the gift."

We gratefully accept other types of gifts. Please consult with the planned giving manager for further information.



Glossary of terms

Asset	Any property that has value.
Beneficiary	A person or organization who receives a benefit under a will.
Bequest	A gift such as personal property or cash in a will.
Estate	Everything owned by a person.
Executor	A person or trust company named in a will to carry out the instructions contained in the will.
Guardian	A person who assumes responsibility for a child under the age of 18 or an incompetent person.
Joint tenancy	When property is held by 2 or more persons and each has an undivided equal interest, so that on the death of one person his/her share devolves to the survivor or survivors.
Legacy	A gift of money or personal property by will.
Liability	A financial obligation to pay money to another party.
Personal effects	Personal belongings (such as clothes, pictures, household appliances and pets).
Power of attorney	A legal document which authorizes a person to act as an agent for another.
Residue	The estate assets which remain after the payment of liabilities and bequests.
Will	A legally enforceable declaration of a person's wishes regarding the management and distribution of his/her property after death.



Create a legacy of hope

After providing for your loved ones, please consider a gift to the Canadian Cancer Society. Imagine life for future generations if they knew they would not have to fear cancer.

There are many options for making either a gift during your lifetime or a deferred gift regardless of its size:

- an annual or monthly donation
- a one-time gift
- a bequest in your will
- transfer of publicly-traded securities
- life insurance (cash value or proceeds)
- gifts of RRSPs or RRIFs

For further information about planned giving opportunities, please contact us in confidence.

Trina Owens
Planned Giving & Stewardship
1910 McIntyre Street
Regina, SK S4P 2R3

Direct phone: (306) 790-5819
Toll-free: 1 877 977-4673
Fax: (306) 569-2133
E-mail: towens@sk.cancer.ca

Visit us online at www.cancer.ca
Charitable registration number: 11882 9803 RR0004

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