

R | M | R | F

BARRISTERS SOLICITORS

Reynolds
Mirth
Richards
& Farmer LLP



Wills & Estate Planning
Thursday, May 27, 2021

WILLS & ESTATE PLANNING



Shelly Chamaschuk
Partner



Emma Banfield
Associate



Today's Presentation

1. Introduction
2. Background and Basics
3. Survey Questions
4. Q&A





Importance of Estate Planning

- During Illness
 - Enduring Power of Attorney
 - Personal Directive
- After death
 - Will





If your spouse/parent/child is in a serious accident tomorrow

- Who will pay his/her mortgage?
- Who will apply for his/her disability insurance?
- Who will pay utilities and taxes?
- Who will look after their dependents?
- What authority do you have to do so?





2. Background and Basics

Enduring Power of Attorney

- Appoint an “Attorney” to deal with financial matters
- Springing or Immediate
- Appoint those you trust to handle your finances
- Power to:
 - support spouse and children
 - sell land



2. Background and Basics

Personal Directive

- Appoint “Agent” to deal with health care/personal matters
- Takes effect on mental incapacity
- Appoint those best able to make personal decisions for you
- Power to decide where you live, activities, make medical decisions
- Deal with vegetative state, medical interventions, organ donation



2. Background and Basics

Alternative to EPA and PD

- Adult Guardianship and Trusteeship Act
- Appoint a Supported Decision Maker/Co-Decision Maker/Guardian and Trustee
- Increased costs – legal fees
- Public Guardian interviews person



2. Background and Basics

Guardianship and Trusteeship

- Need to account as the court directs
- Costs for accounting - legal fees and may need to hire accountant
- No control over appointment
- Family is now in court system





2. Background and Basics

Importance of Having a Will

- Types of Will:
 - formal
 - holograph





2. Background and Basics

Personal Representative

- Personal Representative is the general name in the legislation for someone administering an estate:
 - When there is a Will, called an Executor
 - When there is no Will, called an Administrator
 - When there are trusts set up, called a Trustee



2. Background and Basics

Duties of an Executor

- An executor must perform the role of executor:
 - honestly and in good faith
 - according to the deceased's intentions and the Will
 - with care, diligence and skill that a person of ordinary prudence would exercise in comparable circumstances where a fiduciary(trust) relationship exists
 - distribute the estate as soon as practicable
- An executor is a Trustee and is governed by the *Trustee Act* (Alberta)
- Professionals are held to a higher standard of skill



2. Background and Basics

Duties of an Executor

- Funeral Arrangements
- Identifies assets and debts, transfer to the name of the estate
- Ensure that all assets are located – people may ‘secret’ away assets. Having the deceased write up a list of assets to provide to you before they die is the easiest way to have a comprehensive list
- Control, responsibility, maintenance of assets



2. Background and Basics

Duties of an Executor

- Determines distribution instructions in Will, carries out those instructions
- Reports and accounts to beneficiaries
- Deals with tax filings (final return, T3 trust returns, CRA Clearance Certificate)
- Deals with litigation if conflict between beneficiaries



3. TOP SURVEY QUESTIONS

- i. Do I *need* to have an executor? Can I have more than one?
- ii. What assets are governed (or not governed) by a Will?
- iii. What happens to my estate if I die without a Will?



i. Do I *need* to have an executor? Can I have more than one?

- You can appoint more than one Executor in your Will, but keep in mind the practicalities of having more than one person administering your estate
- Your executor(s) can be a family member, friend, professional or corporate trustee



Side note: What happens if the Executor cannot act?

- Determines distribution instructions in Will, carries out those instructions
- Reports and accounts to beneficiaries
- Deals with tax filings (final return, T3 trust returns, Clearance Certificates)
- Deals with litigation if conflict between beneficiaries



ii) What assets are governed by a Will?

- What passes under a Will?
 - Property specifically named in Will
 - Property solely in deceased's name
 - Assets with no designated beneficiary
- What does not pass under a Will?
 - Joint assets (property (land), some bank accounts)
 - Assets with designated beneficiaries (eg. life insurance, RRSP, TFSA, pensions)



iii) What happens if I die without a Will?

- Application to appoint administrator
- Intestate Succession
 - If spouse and all children are of that relationship, all to spouse
 - If children of a different relationship, the spouse receives the greater of \$150,000.00 or 50% of the estate and residue will be divided between the children

R | M | R | F

BARRISTERS SOLICITORS

Reynolds
Mirth
Richards
& Farmer LLP



Wills & Estate Planning

Thursday, May 27, 2021

4. Live Q & A

Use the chat function to submit your questions

Shelly Chamaschuk
780.497.3364
schamaschuk@rmrf.com

Emma Banfield
780.497.3308
ebanfield@rmrf.com

www.rmrf.com



Call to Action!

- Choose advisor(s)
 - Attorney (EPA)
 - Agent (PD)
 - Executor (Will)
- Ensure you and your family are prepared

R | M | R | F

BARRISTERS SOLICITORS

Reynolds
Mirth
Richards
& Farmer LLP



Wills & Estate Planning
Thursday, May 27, 2021

Thank you!



Shelly Chamaschuk
780.497.3364
schamaschuk@rmrf.com



Emma Banfield
780.497.3308
ebanfield@rmrf.com

www.rmrf.com