

Get prepared with TD

Estate Planning Guide



At TD, we recognize the estate planning process, while extremely important, can feel daunting.

As a result, despite the best of intentions, many people die without an up-to-date estate plan.



Estate plan

What is an estate plan?

An estate plan is a combination of key documents and strategies which can be combined and tailored to reflect your unique wishes and circumstances in the management of your assets and the administration of your estate, both during life and after you pass away.

An estate plan aims to:

- Reflect your values and goals;
- Consider your needs today and in the future; and
- Take into account the best interests and future needs of your loved ones.

Why is it important?

We recognize the estate planning process, while extremely important, can feel daunting. As a result, despite the best of intentions, many people die without an up-to-date estate plan.

Having an up-to-date estate plan is as important as any other aspects of your wealth plan, such as saving for your children's education or investing for your retirement, because your incapacity or death will have major implications for your family and loved ones both emotionally and financially.

Even if you do not think your estate requires planning because it is not complex or large, you may be surprised by:

- The legal complexities of your family situation
- The extent of your property once you consider your home, registered and non registered investments, life insurance, and business interests.

Preparing an up-to-date estate plan can help avoid some common issues in the administration of your assets including:

- Having to file a guardianship application if you become incapable
- Leaving a financial burden for your family
- Unintended unequal distribution of your assets between beneficiaries
- Incurring delays or unnecessary costs in administering your estate
- Leaving a tax burden on your estate or loved ones
- Affecting a beneficiary's entitlement to government assistance

Ensuring your estate plan is up-to-date helps to avoid these issues and provides you with peace of mind because you are prepared for the unexpected and have ensured you will leave a lasting legacy.

Estate planning fundamentals

The lifecycle of an estate plan



Will and estate planning

Helping clients achieve peace of mind, now and in the future.



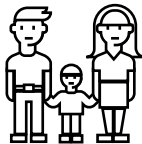
Trustee

Individual/Institution named to administer a trust.



Power of Attorney

Individual/Institution named to look after property of an individual.
Individual named to look after personal care.



Beneficiaries

Individual/Institution that benefits from something, especially a trust, a bequest in a Will or life insurance policy.



Executor

Individual/Institution named to administer an estate.





An estate plan may also include the following elements:

- Testamentary trusts (trusts that are included in your Will and created on your passing)
- Assets held in joint ownership with a right of survivorship that pass to the surviving joint owner(s) in equal proportion (not applicable in Quebec)
- Assets with designated beneficiaries or successor holders
- Inter vivos trusts (trusts that are created while the donor is alive)
- Insurance policies
- Charitable giving or bequests

Key professionals

Throughout your estate planning journey you will likely require the assistance of a number of "key professionals". Listed below are a few of the more frequently engaged:



WEALTH ADVISOR

Assists you to determine what your current and future financial needs are to inform your decisions in relation to your estate planning



INSURANCE ADVISOR

Provides you with insurance solutions based on your financial, estate or tax planning needs



TRUST COMPANY

Provides you with POA, executor & trustee solutions to assist in the management of your assets while you are alive or in the administration of your estate



ACCOUNTANT

Provides you with the accounting and tax advice necessary to complete your estate plan



LAWYER (NOTARY IN QUEBEC)

Counsels you regarding your legal obligations and estate planning options and drafts your estate planning documents in accordance with your wishes



We can help you prepare!

To help you navigate the estate planning process, we developed this **Estate Planning Guide** and our accompanying **Estate Planning Workbook**.



This Guide lays out the estate planning process in simple steps and the Workbook provides the opportunity to capture your information and planning in one place.

Reviewing and completing these documents can help ensure you are able to make productive use of your time with your lawyer and expedite your estate planning process because you have already captured your personal information and your preliminary thoughts on many of the aspects of your estate plan that you will need to consider.

This Estate Planning Guide and our accompanying Estate Planning Workbook are intended to be tools to assist you and your Key Professional(s) to develop your estate planning documents. All information contained in this Estate Planning Guide and our accompanying Estate Planning Workbook should be verified and confirmed with your lawyer and accountant to ensure you have received the proper estate and tax planning advice for your personal situation.

Let's get started!

Table of contents

Part A: Getting started

PAGE 10

Step 1 : Collect your documents and information

Part B: Recording personal information and inventory

PAGE 11

Step 2: Understand you

Step 3: Know what you have

Part C: Preparing your estate plan

PAGE 12

Step 4: Decide what your Will and estate plan should achieve

Step 5: Choose how you want your estate managed and distributed

Part D: Choosing your executor

PAGE 14

Step 6: Choose your executor

Part E: Choosing your POA

PAGE 17

Step 7: Choose your attorney (for your Power of Attorney documents)

Part F: Preparing your estate planning documents

PAGE 20

Step 8: Prepare your Will and Powers of Attorney — what's next?

Part G: Keeping up to date

PAGE 21

Step 9: Inform your administrators

Step 10: Review and update your estate plan regularly



This arrow symbol indicates the location of the step in the **Estate Planning Workbook**.

Part A: Getting started



Step 1: Collect your documents and information

TASK

Collect a number of documents and other information before you begin your estate planning process.

IMPORTANCE

This can make building your estate plan much easier because you will not have to interrupt your planning to locate information and will be able to focus on decision making. Organize and keep your supporting documents available as your Key Professional(s) may want to review them in more detail.



A list of the necessary information to gather is captured in **Step 1** of the Estate Planning Workbook.

Part B: Recording personal information and inventory

Step 2: Understand you

TASK

Capture your basic personal, relationship, and dependant information.

IMPORTANCE

Summarizing your personal information is important because it will assist your Key Professional(s) to understand your personal circumstances and to identify any potential legal issues that may impact your planning decisions and the distribution of your estate early in the planning process. There are many aspects of your personal situation that may greatly influence the legal approach to your estate planning including citizenship, support obligations to children or former spouses, second marriages, and beneficiaries with disabilities or mental health difficulties. So it is extremely important to be candid with your Key Professional(s) to help ensure they can tailor your estate plan appropriately.



Using your key documents as a guideline, complete **Step 2** of the Estate Planning Workbook.

Step 3: Know what you have

TASK

Identify assets you own and how you own them, including business assets, and those that have designated beneficiaries, such as your registered investments, pensions and life insurance policies. You may own assets **solely** (in your name alone), as **joint tenants** (in more than one name, assets pass to the surviving joint owner/owners in equal proportion on passing, not applicable in Quebec) or as **tenants-in-common** (in more than one name in fixed percentages, percentage owned passes to the heirs of the tenant on passing). Next, identify any liabilities you owe, including any significant debts.

IMPORTANCE

Asset information is important because it can assist your lawyer and other planning professionals to:

- Determine your potential tax obligations on death;
- Structure your estate and asset distribution in a logical and tax efficient manner;
- Properly address and distribute all your assets in your Will;
- Confirm assets passing outside the estate are properly structured;
- Identify any planning opportunities you have; and
- Include all appropriate clauses in your documentation.



Fill out **Step 3** of the Workbook.

Note: You only need to fill out the information that is directly applicable to your personal situation.

Part C: Preparing your estate plan

Step 4: Decide what your Will and estate plan should achieve

TASK

Identify your estate planning goals and any potential obstacles or factors that may impact your ability to achieve those objectives.

Note: See Considerations on page 13

IMPORTANCE

Identifying your estate planning goals and priorities:

- Helps you prioritize when making decisions regarding how to distribute your estate and evaluate your estate planning options
- Assists your Key Professional(s) to identify and suggest appropriate planning strategies for you



Please use the check boxes in **Step 4** of the Workbook to quickly capture your goals, priorities and obstacles and you can record any additional goals or considerations in the text box provided.

Step 5: Choose how you want your estate managed and distributed

TASK

Decide on the details of your estate administration such as:

- Who you would like your estate to be distributed to and in what proportions;
- Whether you would like any funds to be held in trust and on what terms;
- Your wishes in relation to the treatment of your pets; and
- Funeral or burial instructions if you want them included in your Will

Make sure you identify what your alternate choices are in the event that your initial choice for distribution or appointment is not possible.

IMPORTANCE

Contemplating the details of your estate administration prior to meeting with your lawyer will mean that you can use your time with your lawyer to talk through your options. Recording your choices and any questions you come up with in the process will also ensure that you remember what you want to discuss further. If you can't make a decision, don't worry. Your lawyer may be able to offer helpful suggestions or additional factors that will assist you in making your choices.



You can record your thoughts on the distribution of your assets and other administrative matters in **Step 5** of the Workbook.



CONSIDERATIONS | Ways to distribute your estate:

Depending on your personal situation and priorities there are many options for how you can choose to distribute your estate. Some strategies you may wish to consider are:

- **Gifting assets before death** — Passing assets on to your beneficiaries during your lifetime. These gifts can be both financial and personal.
- **Distributing assets in your Will through your estate** — Your executor distributes assets within your estate to the beneficiaries (as specified in your Will) after all outstanding debts and taxes are paid, and any tax issues with Canada Revenue Agency (or other tax authorities) are resolved.
- **Distributing assets outside your Will** — Assets such as Registered Accounts, TFSAs, life insurance policies and pensions with designated beneficiaries pass outside of your Will and generally will not be subject to probate fees (fees paid to Court to have the Will validated; usually mandatory though not applicable in Quebec).
- **Joint Ownership** — Joint ownership of an asset generally means that the asset will pass directly to the survivor without passing through the estate, (not applicable in Quebec), however there are many nuances that may prevent the automatic transfer of the assets on death to beneficiaries other than a spouse, so be sure to discuss this with your lawyer.
- **Insurance** — Life insurance can be an efficient way to preserve the value of an estate, provide liquidity upon death to help fund expenses such as taxes, fund an inter-generational wealth transfer, or for charitable donation purposes. Most amounts received from a life insurance policy following someone's death are tax-free, generally creditor protected, and not subject to probate fees (not applicable in Quebec) where there is a designated beneficiary named (other than the estate).
- **Establishing a Trust** — A legal arrangement by which you place property with a Trustee to be held for the benefit of one or more beneficiaries. The Trustee manages the trust property for the beneficiaries.
- **Charitable giving** — Many people choose to leave a legacy to or for a cause they believe in. In addition to the altruistic and goodwill benefits a charitable contribution brings, it can also have significant tax advantages.

Note: Each strategy can be complex and the implementation may result in legal and tax consequences. Please ensure you consult with your legal and accounting advisors to employ the appropriate strategies to help meet your needs.



Part D: Choosing your executor

Step 6: Choose your executor

TASK

Choose your executor(s) and alternate executor(s).

IMPORTANCE

The executor(s)* is the individual(s) or estate professional (eg. trust company) appointed in your Will to administer your estate after your death.



You can record your executor information in **Step 6** of the Workbook.

This section also includes certain questions that will help you determine whether you should consider appointing a professional or corporate executor.

CONSIDERATIONS

Many people believe they are bestowing an honour on family members or friends by naming them executor. In reality, very few people truly understand the duties of an executor and the obligations that come with this responsibility.

Being an executor is a complex role that includes dozens of distinct duties, some of which call for specialized expertise, including:

- Administering your estate in accordance with your Will;
- Managing beneficiary expectations and conflicts as they arise;
- Paying bequests and distribute gifts of property according to the Will;
- Retaining sufficient cash to settle debts and/or final expenses of the estate;
- Preparing and filing multiple tax return(s), pay any outstanding taxes and obtain tax clearances from Canada Revenue Agency;
- Keeping an accounting of all estate transactions and pass accounts with the court if necessary;
- Managing any estate litigation that arises.

PROCESS | Selecting an executor

When choosing who will act as your executor there are a number of things you can take into account including the following:

Do you have a **good** candidate?



Will your candidate be able to execute the **duties** of the role?



Does your candidate have the ability to deal with the **complexity** of your estate?



Who do people appoint as executors?

- An adult child, the eldest child, all children
- Parents
- Relatives outside of the immediate family
- Friends
- Lawyers
- A Trust Company

People appointed as an executor should:

- Be organized
- Be trustworthy
- Be ethical in situations involving self-interest
- Be financially astute
- Be able to act under emotional strain and not bow to family pressure
- Have the time and attention to devote to administration
- Be close to the place you live (within Canada and ideally same province)
- Be willing to take on the responsibility of administration given an executor's personal liability for errors

Consider family dynamics that can increase the difficulty of the administration of your estate:

- Do you have a blended family or second spouse?
- Do you have disabled beneficiaries?
- Do you have beneficiaries that may contest decisions?
- Do you have challenging family dynamics?
- Do you have dependants?
- Will naming one child over others negatively impact family relationships?
- Will naming all children create family discord?

Does your candidate for executor have the ability to deal with the **nature of your assets**?



If you answered **no** to any of the previous questions, consider a professional executor.



Consider the nature of your assets and distribution that can increase the difficulty of your estate administration:

- Do you have out of province or international beneficiaries?
- Do you own vacation property (domestic and/or foreign)?
- Do you own a business or a private corporation?
- Do you want to establish a charitable foundation on your death?

A professional executor maybe helpful when:

- You don't have an individual to name as executor
- Your loved ones don't have the time or the skill set to be appointed as executor
- You feel the legal or time burden of the executor role is too much to ask of a loved one for any reason
- You have unique family dynamics
- Your estate distribution is complex

You have the option to name a professional corporation, to act as executor or co-executor

You have the option to name a professional corporation to act as executor or co-executor, to look after all of your estate needs, including tax returns. The benefits of working with a corporate executor extend beyond the relief of having professional support at a trying time — they can also help to maximize the value of your estate for your beneficiaries through professional handling of estate assets and taxes.

If you are considering appointing a corporate executor, ensure you contact the institution to understand the process for them to be included in your estate planning documents.

If your estate has some complexities but you do not wish to appoint a corporate executor, you may choose to add a provision in your Will to allow your executor(s) the option of hiring a professional corporation to assist him/her/them in settling your estate.

Your lawyer should be well versed in all your executor appointment options and will advise you regarding the considerations you should take into account when considering your executor appointment options.



Part E: Choosing your POA

Step 7: Choose your attorney (for your Power of Attorney documents)

TASK

Choose your Attorney(s) and alternate Attorney(s) (or equivalent)** for your Power of Attorney for Property and Personal Care.***



Please see **Step 7** of the Workbook to record your preferences in regards to your Powers of Attorney (or equivalent).

IMPORTANCE

Part of a complete estate plan includes planning for possible illness, accident, or other disability that leaves you unable to manage your financial affairs and make personal care decisions. Powers of Attorney (or equivalent) are documents which allow you to appoint an individual(s), or corporation (in the case of a Power of Attorney for Property) as an Attorney(s) (or equivalent), to manage your financial affairs during your lifetime if you are incapable.



PROCESS | Selecting an attorney for property:

A Power of Attorney for Property (or equivalent) is a legal document that allows you to appoint an individual(s) to manage your financial affairs in the event of your incapacity. The factors to consider when appointing an Attorney for Property (or equivalent) are very similar to those to consider when appointing an executor with an added emphasis on the fact that:

- The individual(s) should be close to you in the event that you require ongoing assistance; and
- The individual(s) should be trustworthy and ethical as they may be managing your assets for a long period and they may have a future interest in your assets if they are a beneficiary.

In the instance you are unsure you have an appropriate individual to take on the accountabilities of an Attorney for Property (or equivalent), help is available. Like with executors, you can also hire a professional corporation to act as your corporate Attorney

for Property (or equivalent) where:

- You don't have an individual to name as Attorney;
- Your loved ones don't have the time or the skill set to be appointed as Attorney;
- You feel the legal or time burden of the Attorney role is too much to ask of a loved one for any reason;
- You have unique family dynamics;
- Your assets to be managed on an ongoing basis are complex.

Similarly, if your assets have some complexities but you do not wish to appoint a corporate Attorney, you may choose to add a provision in your Power of Attorney for Property (or equivalent) to allow your Attorney(s) the option of hiring a professional corporation to assist him/her/them in administering your assets while you are incapable.



PROCESS | Selecting an attorney for personal care:

A Power of Attorney for Personal Care (or equivalent) is a legal document that can be drafted in most provinces which allows you to appoint someone to make decisions on your behalf should you become incapable concerning your:

- Nutrition
- Shelter
- Clothing
- Consent for medical treatment or withholding treatment (if personal directives are allowed under provincial law).

Your Attorney(s) for Personal Care should be an individual(s) who:

- Has knowledge regarding your personal care wishes;
- You feel confident will respect your wishes and make appropriate decisions on your behalf, even while under pressure or emotional strain;

- Will work with your Attorney for Property (or equivalent) to ensure the decisions regarding your care can be supported by your financial circumstances.

Because of the personal nature of the decisions made in this position, your corporate executor or attorney for property is not able to act as your Attorney for Personal Care.

Note: In some provinces/territories, Powers of Attorney (or equivalent) for Property can also be drafted so they can be used prior to incapacity, in the event that in the future you no longer wish to manage your assets and want assistance from your Attorney(s) for Property (or equivalent). If you want to have this option ensure that you speak with your lawyer. In all cases, Power of Attorney arrangements for both property and personal care terminate upon your death, at which time your Will takes effect. It's a good idea to prepare your Will(s) and your Power(s) of Attorney at the same time.



Part F: Preparing your estate planning documents

Step 8: Prepare your Will(s) and powers of attorney — what's next?

TASK

1. With your Advisor, make an action plan to complete the steps of this Estate Planning Guide and Workbook to help ensure you stay on track to complete your estate planning.
2. Identify and make an appointment with your legal counsel to discuss, draft and execute your estate planning documents.
3. Retain other Key Professional(s) as necessary.

IMPORTANCE

Assigning a completion date to each task in this Estate Planning Guide can help you to hold yourself accountable to complete your estate planning. Completing the steps of this Guide prior to meeting with your lawyer can help ensure your lawyer has a full picture of

your finances and personal priorities, helping to ensure you make productive use of your time with your lawyer and expedite your Estate Planning process. All Wills should be prepared by a lawyer who is familiar with Estate Planning and knowledgeable about how to complete the necessary legal work effectively. Depending on your situation, you may wish to enlist the expertise of Key Professional(s), such as tax and insurance planning professionals, to help ensure your estate is organized in a tax-efficient manner and enable you to take advantage of any planning opportunities available to you.



Please see **Step 8** of the Workbook to record your estate planning action plan.

Part G: Keeping up to date

Step 9: Inform your administrators

TASK

Ensure a trusted family member or advisor is aware of the location of your estate planning documents. Also, capture essential information your Attorney for Property (or equivalent) or executor will not be able to know otherwise such as information regarding:

- Immediate care of pets
- Loyalty cards
- Digital assets or online accounts
- Safety deposit boxes
- Safes
- Storage lockers
- Security systems

IMPORTANCE

It is important for someone to know where your estate planning documents and essential information is and to keep information that your administrators do not know up to date. This will ensure your administrators can locate your documents if they need to act on your behalf.



You can record that information in **Step 9** of the Workbook.

Step 10: Review and update your estate plan regularly

TASK

Re-visit your estate plan periodically and ensure it is up-to-date. You should also review your estate plan immediately when major life events occur including:

- A change in your marital status
- A move to another province or country
- Births or deaths in your family or with other named heirs or dependants
- A significant change in your health
- A significant change that affects the suitability of your named executor or power of attorney
- A significant change that affects the suitability of your named guardian(s) for your dependants
- A significant change in your estate's value
- A change to the laws governing estate and incapacity planning that may affect your Will and estate plan

Keep abreast of any changes to the laws governing Powers of Attorney (or equivalent), taxes, Wills, or estate structures.

IMPORTANCE

Completing your estate plan can feel like a wonderful accomplishment, knowing your wishes for your loved ones and the legacy you want to leave have been clearly documented. Please remember to revisit your estate plan as it should reflect changes in your personal circumstances or the legal or regulatory environment as this may change the way your estate plan is administered.

Thank you for
letting us assist you
with your estate
planning journey.

We are committed to assisting you in protecting what matters most as you plan and prepare your estate plan. Should you have any questions about the Will and Estate planning process, or require assistance, please contact your licensed tax or legal counsel or your TD advisor who can connect you with the appropriate TD specialist.





*While we use the term “Executor” throughout this document, an Executor is also described as a Liquidator in the Province of Quebec.

**While we use the terms “Attorney for Property” and “Attorney for Personal Care” throughout this document, different provinces/territories also use different terms to describe the role of an “Attorney”. An Attorney for Personal Care is also described as a delegate, proxy, representative, agent, personal attorney, substitute decision-maker, or a mandatary in the Province of Quebec, while an Attorney for Property is also described in different provinces as a property attorney, or a mandatary in the Province of Quebec. You can confirm what terms are used in your jurisdiction in your provincial/territorial legislation.

***While we use the terms “Power of Attorney for Personal Care” and “Power of Attorney for Property” throughout this document, different provinces/territories use different terms to describe these documents. Power of Attorney for Personal Care is also described as an advanced, healthcare, or personal directive, or a mandate in case of incapacity in the Province of Quebec. A Power of Attorney for Property is also described as a continuing, enduring or durable power of attorney, or mandate given in anticipation of the mandator’s incapacity in the Province of Quebec. You can confirm what terms are used in your jurisdiction in your provincial/territorial legislation.

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