



Wealth Insights

TD Wealth Private Investment Advice

Monthly Perspectives From The Daley Group Wealth Management

Your Power of Attorney and Executor: Is a Review Warranted?

When was the last time you reviewed your estate plan? While this should be done at least every five years and especially when personal circumstances change, the continuing effects of the pandemic remind us of the value in revisiting estate planning when the circumstances around us also change.

If you are overdue for a review, perhaps a good place to start is with those you have appointed to help carry out your estate plan: the “attorney” named under power of attorney (POA) documents and the executor of your will.* Here is how the pandemic continues to change the way in which we think about this support.

The importance of “checking in.” When was the last time you spoke to your named executor/liquidator* about the role? The pandemic may have altered an individual’s capacity to act on your behalf. A front-line healthcare worker may not be able to manage additional duties if under significant work obligations. Immune-compromised individuals may be unable to safely perform certain functions of the role. If the individual is not aware that they have been appointed, consider that court intervention will be required if they are unwilling or unable to act and an alternate has not been named. Under normal circumstances, this is a lengthy and costly process; throughout the pandemic, this has been complicated by further delays as court operations have been impacted in many provinces.

The value in communicating the “basics.” Have you provided direction to help support those acting on your behalf? With your executor, have you communicated where important documentation can be found? This is important to prevent an unnecessary search, yet with many businesses continuing to have reduced operations (including banks, law firms), access to documents may be even more challenging. Is your attorney aware of the financial or healthcare choices you wish to make in the event of your incapacity? The health consequences of Covid-19 have highlighted the differing treatment outcomes that some may find more controversial, such as the use of a ventilator for life support.

The understanding that procedures may have changed. Is your executor aware that their tasks may need to be carried out differently? On a positive note, there have been advancements as a result of the pandemic — many provinces have now allowed for virtual witnessing of certain documentation and electronic submissions for various court-related applications.** However, the pandemic has also made seemingly easy procedures more difficult or time-consuming, such as constraints on in-person meetings. Jointly appointed executors may struggle to effectively act in unison. With the limits on travel, if an appointed executor doesn’t live locally, will they be able to fulfil their role?



As you review your estate plan, the impact of the ongoing pandemic on those appointed to support you is just one area to contemplate. In some cases, you may need to make changes to those named to support you, or appoint temporary alternatives during this period. For a discussion on this, or other aspects of your estate plan, we can help to connect you with a specialist who can provide support. Please get in touch.

*In Quebec, the POA is known as a mandate and the person named in the mandate is referred to as a mandatary. The executor is known as a liquidator.

**Some of these measures have been approved under emergency conditions and may be temporary depending on province of residence.

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