Estate planning guide



London Life

Designing your plan for family and estate protection

Your estate plan will serve as a road map to help others manage your affairs and finances after you die. Preparing an estate plan now can help protect the financial well-being of you and your family.

This guide provides an overview of estate planning and will detail important items for you to consider, including a checklist to help assess your current situation. Once you've had an opportunity to review this guide, you'll want to consult with professional advisors in estate planning, including your accountant, lawyer or notary and financial security advisor.

Estate planning: protect, choose, control

Estate planning is an important part of protecting your assets, your family and your legacy. An effective estate plan helps make certain that your personal property is managed effectively while you're alive and ensures your assets are properly distributed after your death. That means more of your estate is left for your heirs.

Estate planning is for anyone looking to leave their estate to loved ones. It's especially important if you don't want to see the estate you've spent a lifetime building eroded by taxes and other fees.



What is an estate plan?

An estate plan is part of your overall financial security plan and offers several benefits during your lifetime. The products you may use to support your plan may also help you accumulate savings for retirement and help you take advantage of tax efficiencies. They may also help you maintain your lifestyle if you become ill or disabled for a lengthy period.

Your goals for estate planning could include:

- Preserving wealth
- Seeking tax and estate fee efficiencies
- Providing liquidity or funds to pay taxes and estate fees
- Supplementing income for retirement or for supporting dependants
- Ensuring equity in estate distribution
- Maintaining family harmony

Is an estate plan the same as a business succession plan?

An estate plan includes all of your personal and business assets. However, a business succession plan only considers your business assets and can determine how your business will be transferred to others by outlining the steps necessary to prepare for the transition.

For more information on creating a business succession plan that works for you, see your advisor.

Your estate planning checklist

Settling an estate can be a big job for an executor (or liquidator in Quebec). A proper estate plan that's reviewed regularly can help you avoid some legal pitfalls, reducing strain on your executor. Assess your current situation using the checklist below.

Your executor

- Have you chosen your executor?
- Have you also considered a backup or alternate executor?
- Does this person(s) know of your choice(s)?
- Have you explained your expectations?

Setting your priorities

- Have you specified how your assets are to be distributed?
- Will there be a source of income for your family when you die?
- Will there be a source of income if you are disabled?
- Do you know what your income will be at retirement?
- Do you know what the tax exposure is on your death?
- Do you know how any income taxes and probate fees, (if applicable) that arise on your death will be paid? This is called estate administration tax in Ontario.

Taking an inventory of your estate

- Are all your important papers together?
- Does your executor know where the papers are?
- Do you have a will?
- Do you need/have a trust agreement?
- Do you have a buy-sell agreement for your business?
- Do you have a succession plan for your business?
- Do you have a current net worth statement?

Your family

- Have you made funeral plans?
- Have you discussed funeral plans with your family?
- Have you had a family meeting to talk about your estate plan?
- Has your family met your professional advisors?
- Does your family know who you've appointed as your executor?
- Is your life insurance beneficiary information up to date?

This list can help start discussions with your family about your wishes. Look to your advisor for help in setting up an estate plan that's specific to your needs or update your estate plan if changes have occurred.

Your will: the most important document you'll ever sign

Your will is a legally enforceable declaration of how you want your possessions distributed after your death. It allows you to determine who will receive your assets and in what portion. In this way, it safeguards your interests and wishes, especially if family members disagree on the division of your assets. You should also appoint an executor (or liquidator in Quebec) who will manage your estate after your death and carry out your final wishes.

Now is the best time to prepare a will. Unfortunately, people often leave it until the last minute – such as before a trip or major surgery – and are forced to make hasty decisions. Your will should be reviewed regularly, especially if a significant life event occurs.

There are do-it-yourself will forms available, but getting professional advice could save your estate more than the amount you spend on legal fees.

London Life's *For your executor* is a brochure for both you and your executor and is available from your advisor. It will give you a better understanding of the many responsibilities your executor will have to carry out on your behalf. It may also act as a reference tool for your executor after you die. You should review the brochure together and discuss your expectations – taking time to do this now will help ensure your final wishes are carried out the way you intend.

Being an executor (or liquidator in Quebec) is a complex job that includes some risks. Executor duties can last for months – even years – particularly in cases of trusts or more complicated estate or family situations. Choose carefully and think about the duties your executor will have to perform. You might also want to consider directing your executor to obtain insurance to protect them from liability and safeguard the value of assets for heirs.

If you die without a will, here's what could happen to your assets

If you die without a will:

- Your estate may be divided in a way you may not have wanted.
- Someone will be appointed to administer your estate, rather than you choosing the person you want for the role.
- Your assets may be frozen, which means no one has access to money or property until the estate is settled.
- A minor's inheritance may be frozen until they reach the age of majority.
- Your estate or your heirs may have to pay more taxes.

If you are survived by:

- Spouse, but no children, all of your estate goes to the spouse.*
- Child(ren), but no spouse, all of the estate goes to the children.
- Spouse and child(ren), the estate is distributed according to provincial/territorial law.

Each province and/or territory has its own laws on how your assets will be distributed if you die without a will (a situation called 'intestacy').The following chart shows selected provisions of provincial and territorial laws as they apply to situations where the intestate has left a spouse and at least one child.**

Please seek professional legal advice to determine how the law applies in your specific circumstances.

Province and relevant Act	Spouse's preferential share	Spouse plus one child	Spouse plus children
Alberta[1] Part 3 of *Wills and Succession Act*	Not applicable	All to spouse, if the child is descendent of intestate and the spouse. Otherwise, greater of $150,000[2] or ½ of the estate to spouse, and remainder to child	All to spouse, if all the children are descendent of intestate and the spouse. Otherwise, greater of $150,000[3] or ½ of the estate to spouse, and remainder to children
British Columbia[4] Part 3 of *Wills, Estates and Succession Act*	Household furnishings, plus $300,000 (if all child(ren) are descendent of intestate and spouse, otherwise $150,000) However, if the estate's net value is less than the spouse's preferential share, everything to spouse	Balance after spouse's preferential share split equally	½ of the balance after spouse's preferential share to spouse; remaining ½ to children
Manitoba[5] Section 2 of *The Intestate Succession Act*	Greater of $50,000 or ½ of the estate if not all children are descendants of intestate and spouse	All to spouse, if the child is descendent of intestate and the spouse. Otherwise, spouse receives preferential share and ½ of remainder of estate	All to spouse, if all the children are descendent of intestate and the spouse. Otherwise, spouse receives preferential share and ½ of remainder of estate
New Brunswick[6] Part 2 of *Devolution of Estates Act*	Marital property[7]	Marital property to spouse, then half to spouse	Marital property to spouse, then 1/3 of the balance to spouse; remainder to children to be distributed equally
Newfoundland and Labrador[8] Section 4 of *Intestate Succession Act*	Not applicable	½ of the estate to spouse	1/3 to spouse
Northwest Territories/Nunavut[9] Section 2 of *Intestate Succession Act*	Entire estate if estate <$50,000 If estate >$50,000: $50,000 or matrimonial home, at spouse's election	Spouse receives preferential share and ½ of the remainder of the estate	Spouse receives preferential share, and 1/3 of the remainder of the estate
Nova Scotia[10] Section 4 of *Intestate Succession Act*	Entire estate if estate <$50,000 If estate >$50,000: $50,000 or home occupied as principal residence, at spouse's election	Spouse receives preferential share and ½ of remainder of the estate	Spouse receives preferential share, and 1/3 of the remainder of the estate
Ontario[11] Part 2 of *Succession Law Reform Act*	$200,000[12]	Spouse receives preferential share and ½ of remainder of the estate	Spouse receives preferential share, and ⅓ of the remainder of the estate
Prince Edward Island[13] Part 4 of *Probate Act*	Not applicable	½ of estate to spouse	1/3 of estate to spouse
***Quebec**[14] Code 666 of *Civil Code of Quebec*	Not applicable	1/3 to married or civil union spouse; 2/3 to child	1/3 to married or civil union spouse; 2/3 to children
Saskatchewan[15] Section 6 of *The Intestate Succession Act, 1996*	Entire estate if estate <$100,000 $100,000	Spouse receives preferential share and ½ of remainder of the estate	Spouse receives preferential share and 1/3 of the remainder of the estate
Yukon[16] Part 10 of *Estate Administration Act*	Entire estate if estate <$75,000 $75,000	Spouse receives preferential share and ½ of remainder of the estate	Spouse receives preferential share and 1/3 of the remainder of the estate

* Without proper testamentary dispositions, no common law spouse inherits automatically in Quebec. If there is a married or civil union spouse, but no children or descendants, the rules vary in Quebec. If father and/or mother are alive, then 1/3 to them and 2/3 to surviving spouse. If deceased's brothers and sisters and their children are alive, then 1/3 to them and 2/3 to the spouse.

** This material is for information purposes only and should not be construed as providing legal or tax advice. Reasonable efforts have been made to ensure its accuracy, but errors and omissions are possible. All comments related to taxation are general in nature and are based on current Canadian tax legislation and interpretations for Canadian residents, which is subject to change. For individual circumstances, consult with your legal or tax professional. This information is provided by The London Life Insurance Company and is current as of April 2015.

The six key steps to developing your estate plan

1. Determine your estate plan goals
2. Take an inventory of your estate
3. Consult with professional advisors
4. Implement your plan
5. Share your plan
6. Monitor and review your plan as your personal circumstances change

Step 1

Determine your estate planning goals

The first step in making an estate plan is deciding on your goals for your lifetime. Then you must decide what you want to do with your estate when you die.

You'll also want to consider these important questions:

- Do you want to leave as large of an estate as possible for your spouse, children or grandchildren, or your favorite charity?
- Do you want your beneficiaries to receive assets during your lifetime, upon your death or at some other time?
- Are there specific assets you want family members to receive?
- Do you need to provide for a child or adult who has a special need?
- Do you want to transfer your business to a family member?

What you decide will help you develop your estate plan. Estate planning can help you ensure:

- Your family is not left with a financial burden
- The value of your assets is maximized
- Your assets are divided as you wish
- Your estate is settled without unnecessary delays
- Your estate plan has addressed taxation laws
- Family disputes about the distribution of your estate are prevented
- Costs associated with settling your estate can be paid



Know the costs of settling your estate

There are costs that come with settling your estate. However, developing an estate plan can help ensure your loved ones are not unexpectedly burdened with these costs.

Income taxes must be paid by your estate on any taxable income you earn in the year of your death. Also, because tax laws deem you to dispose of your assets at fair market value when you die, it is quite possible the largest burden on your estate at your death may be the income taxes owing. This can include your business or farm, vacation property, savings, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs) or other investments.

If you have a spouse or common-law partner, most of your registered assets can roll over to this person, effectively deferring tax until the deemed disposition upon their death. However, there can be significant tax owing on these assets upon the death of your spouse or common-law partner. Life insurance is commonly used to pay income taxes arising on death so as to better protect family assets for the next generation.

Other costs to consider are probate fees (estate administration tax), if any. Probate is the process of authenticating a will. In most provinces, courts charge probate fees to declare your will valid and confirm your executor. These fees vary from one province to another, but they can amount to as much as 1.5 per cent of your estate.***

*** Probate fees are payable only when a will is probated, i.e., declared by a court to be the valid "last will and testament" of the deceased. Under current law, death benefits payable under a life insurance policy to a named beneficiary, i.e., other than to the deceased's estate, do not form part of the deceased's estate and are not considered part of the estate for probate fee purposes. For most jurisdictions in Canada, there is no upper limit on the amount of probate fees charged – the larger the estate, the greater the fees. For other jurisdictions, however, there are probate fee "caps", or only minimal probate fees are charged.

Step 2

Take an inventory of your estate

The next step is to identify everything that forms part of your estate, including:

- Savings
- Insurance policies
- Your home or other real estate
- Pension plans
- RRSPs
- RRIFs
- TFSAs
- Non-registered investments (i.e. shares, your ownership of a business, mutual funds, segregated fund policies, annuities, etc.)
- Personal property (i.e. cars, jewelry, art and antiques)

Your inventory list should also include liabilities, such as:

- Mortgages
- Credit cards
- Personal obligations (i.e. family support)

Your advisor can help you identify your personal and financial assets, record where they are located and obtain their current value using *Your personal records organizer*.

This record will give you, and those handling your estate, a better picture of your net worth. Once you've gathered this information, you'll find it easy to review and update the record every two or three years and after significant life events, such as marriage, divorce or the birth of a child.

Step 3

Consult the experts

Your estate planning goals are best implemented with the help of a trusted advisor. Your advisor can work with you and a carefully chosen team of other professionals, such as your lawyer or accountant, to help select products that allow you to achieve your financial goals while living and ensure your heirs receive your assets following your death.



Step 4

Implement your plan

The team of professional advisors you have chosen will carefully review your estate plan objectives and help you put your plan in place. This could be done by helping you with the creation of a new will or with a review of your existing will. Implementing your plan can also include purchasing critical illness insurance, disability insurance, life insurance or setting up a trust. A planned gift to your favourite charity can also be arranged, possibly creating further tax advantages for your estate while leaving a thoughtful legacy.

Step 5

Share your plan

It's not easy to talk about funeral and burial arrangements or the distribution of your estate. But to avoid surprises for your family and ensure your wishes are carried out, it's important to let your family know how you want your estate to be distributed. Be sure to introduce them to your trusted professional advisors and let them know where your will and personal records are located.

Your advisor can provide you with the brochure *For your family*. Review the brochure and discuss it with your immediate family as it provides information they'll find helpful after your death.

Step 6

Monitor your plan

As your life evolves and your needs change, your estate plan should be updated to reflect these adjustments. Reviewing your plan on a regular basis allows you to re-evaluate the goals laid out in Step 1.



A properly designed estate plan will keep pace with changes in your family circumstances, such as the birth of a child, the premature death of an heir or a divorce.

Explore tax planning strategies

When reviewing your estate planning objectives, tax efficiencies may be a key component in reaching your financial goals. Here are some common tools used for managing the impact of taxes on your estate.

Life insurance

Life insurance is a way to protect your loved ones when you die and leave a legacy to them.

Life insurance is an effective way to:

- Provide for your spouse and children
- Pay capital gains and other taxes owing at death
- Facilitate the transfer of ownership of a business at death
- Provide for a dependant with disabilities or special needs
- Leave a final gift to a favorite charity
- Enhance the value of your estate while also helping to cover your income tax burden on death

Types of life insurance

There are two basic types of life insurance: term and permanent. Each satisfies different life insurance needs.

Term insurance provides affordable, short-term protection that is simple and straightforward. Term insurance covers you for a specific amount of time at a set premium amount that won't increase over the term of your policy. At the end of your term, you have the option to renew your coverage without having to provide evidence of good health, but you'll often have a higher premium. Term insurance also offers you the flexibility to adjust your coverage at renewal time to suit your changing needs.

Permanent insurance provides added security with life-long insurance protection that stays in effect as long as your pay your premiums, regardless of your age or health. Some types of permanent insurance allow you to pay higher premiums for a shorter period of time, while still providing lifetime protection. Permanent insurance can also be used to grow the cash value inside your policy, and you can access this money during your lifetime in the form of a policy loan or withdrawal.

Your advisor can work with you to choose the right type of insurance to suit your needs.

Beneficiary designations

- Naming beneficiaries for your registered plans and pension plans allows the beneficiary to receive proceeds outside of your will, so probate fees (estate administration tax), if any, may not be payable on the value of the plan at death. This associated tax burden needs to be planned for since it may fall on your estate and not the beneficiary in certain situations.
- In Quebec, such a beneficiary designation is available only on life insurance products, including annuities issued by insurers that meet the definition of life or fixed termed annuities and pension plans.
- Named life insurance beneficiaries generally receive the proceeds tax-free.

Gifts made during your lifetime

- Allows you to transfer assets without paying probate fees (estate administration tax), if any. However, gifts of capital property (to anyone other than your spouse) are generally treated as a sale and may trigger capital gains or losses to you.
- Gifts to spouses or minor children may trigger the income attribution rules. This results in income earned on gifts being attributed to you (other than capital gains received by a minor child).

Joint ownership of property

- Allows two or more people to own property.
- If assets are held in joint tenancy (rather than as tenants-in-common), when one owner dies, ownership normally passes to remaining owner(s) outside of the deceased owner's will (this concept does not exist in Quebec but the designation of a subrogated policy owner will produce the same legal effect). Joint tenancy may help to avoid probate fees (estate administration tax), but not capital gains taxes for the deceased owner.
- If you are considering adding another person as a joint owner of property for estate planning purposes, it's important you consult with experienced professional advisors since such planning involves and raises issues that would include: trust and estate, property ownership, creditor and tax considerations.

Discuss these tax reduction strategy options with your advisor to determine if one or more of these options works well with your goals and priorities.



Notes:

1. Wills and Succession Act, SA 2010, c W-12.2.
2. Alta Reg 217/2011.
3. Alta Reg 217/2011.
4. Wills, Estates and Succession Act, SBC 2009 c 13.
5. The Intestate Succession Act, CCSM c I85.
6. Devolution of Estates Act, RSNB 1973, c D-9.
7. "Marital Property" under New Brunswick's Devolution of Estates Act, is defined in the Marital Property Act, SNB 2012, c 107.
8. Intestate Succession Act, RSNL 1990, c I-21.
9. Intestate Succession Act, RSNWT 1988, c I-10.
10. Intestate Succession Act, RSNS 1989, c 236.
11. Succession Law Reform Act, RSO 1990, c S.26.
12. O Reg 54/95.
13. Probate Act, RSPEI 1988, c P-21.
14. Civil Code of Quebec, CQLR c C-1991.
15. The Intestate Succession Act, 1996, SS 1996, c I-13.1.
16. Yukon's Estate Administration Act, RSY 2002, c 77.

Estate planning solutions that can help you design a plan that’s right for your family.

London Life has a rich history of helping Canadians meet their financial security needs. Founded in London, Ontario, in 1874, London Life is a leading Canadian insurer with interests in the life insurance, investment, savings and retirement income businesses in Canada as well as the international insurance business.

The information provided is based on current legislation and interpretations for Canadian residents and is accurate to the best of our knowledge as of the date of publication. Future changes to tax legislation and interpretations may affect this information. This information is general in nature and is not intended to be legal or tax advice. For specific situations, you should consult the appropriate legal, accounting or tax advisor.

In Quebec, executors are known as liquidators. Therefore references to executors in this brochure include liquidators in Quebec. Also in Quebec, some estate planning duties may be performed by either lawyers or notaries, more being typically performed by notaries.

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