ESTATE PLANNER

A guide to planning for the future

QEII
HEALTH SCIENCES CENTRE
FOUNDATION
health begins with caring

"I don't want anyone to have to go through what I went through. If a gift in my will can help, what can be better than that?" ~ Tim Williston

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TIM & NANCY WILLISTON

Tim Williston reflects on what he missed when dystonia took over his life: hugging his wife Nancy, family dinners and reading a good book. After living with a constant and violent shaking of his head for two years, their lives were transformed when Tim received deep-brain stimulation treatment at the QEII.

The relentless movement stopped and they've been living their lives to the fullest ever since.

"Not a day goes by that I'm not grateful to the QEII," Nancy says. "They gave us our lives back."

FOREWORD

We are pleased to provide you with this publication to use as a resource as you plan for the eventual disbursement of your estate. As you read the following material, give careful thought as to how you might use this information to ensure your plans speak to your values and what is important to you.

The plans you make today can provide considerable comfort to your family and friends in the future. By planning now you are providing a priceless gift. An up-to-date *will*, clearly outlined funeral wishes and a detailed estate plan will save your family considerable frustration, confusion and expense, all at a time when they can least afford them – the time of a family funeral.

As you consider your plans, you may discover an opportunity to arrange a charitable gift. Some acts of generosity can be spontaneous while others require careful planning. Consultation with your lawyer and other trusted advisors will ensure your family members receive the support they need and that your wishes will be respected.

Every attempt has been made to provide accurate information; however, the material presented here is intended only as a guide to begin your planning. The various lists included in this publication are for your use only and will not make your wishes legally binding. Also, laws can change over time, making information incomplete or inaccurate. You are strongly encouraged to seek professional legal advice when drafting documents such as a *will* and *power of attorney*. Other professional advisors should be consulted when considering tax and financial issues.

We hope this booklet will serve as a valuable resource for accomplishing your planning goals, while providing you with peace of mind.

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ABOUT ESTATE PLANNING

Estate planning is the process of making formal arrangements to distribute your assets to beneficiaries. Disbursements may be made after your death or during your lifetime and it is common to do both. This booklet will provide information to help you consider your estate planning needs and to seek the professional assistance you may need to ensure your wishes will be followed.

Your estate can be thought of simply as a trust into which all your assets (money, property and personal belongings) are transferred on your death, pending distribution. Often when people think of an estate, images of wealth, luxury homes and large yachts come to mind! Although most of us deal with more modest possessions, we will all leave some sort of an estate and we should have a well-crafted plan to distribute it after our death.

A PROPERLY DESIGNED ESTATE PLAN CAN ACCOMPLISH THE FOLLOWING:

- Estate assets will be distributed according to your wishes in a timely manner.
- Income taxes owing upon death will be minimized.
- Your beneficiaries will receive more after-tax assets.
- Your estate's legal proceedings will be less complicated and less expensive.

The concept of estate planning is simple; however, designing an estate plan that meets your goals and needs may be more complex. It often requires a sophisticated approach, particularly for those owning significant assets. Even if your estate is modest, it is critical to have a strategy that assures the appropriate handling, administering and disposition of your assets according to your wishes and needs.

THE VALUE OF YOUR ESTATE

You may be surprised at the total value of your estate when you include all your property – like your home, RRSP/RRIFs, pension, insurance, investments and other assets. A carefully considered, professionally prepared estate plan can help maintain this value for your heirs by minimizing tax liabilities and reducing probate and other fees. An effective estate plan can ensure your assets are distributed according to your wishes. It can protect your beneficiaries from costly and needless delays and aggravation in settling your estate. On the other hand, an estate that cannot be settled promptly can mean extra expenses for your beneficiaries who may lack their own financial resources.

ESTATE PLANNING TIP

A good first step in preparing your estate plan is to make a record of your assets and keep it up-to-date. A helpful form is provided on page 8. When listing your assets consider the following:

- In whose name is the title to your house? Is it jointly-owned with your spouse? This is important in determining whether it will be distributed through your *will* or not.
- Who are the beneficiaries under your pension plan and life insurance policies? If there are named beneficiaries, these will pass outside of your *will*.
- What is the total value of your assets?
- If you own a business, do you have a succession plan in place?
- Have you loaned money to family members? Has this been documented?

You should keep clear records of what you owe, such as mortgages, bank loans, etc. In addition, you should calculate taxes owing in the future on capital property such as a cottage or investments *(see page 10)*.

By calculating the value of what you own and subtracting what you owe (including income taxes), you will have an estimate of what will be available for your heirs. A helpful form to do this is found on page 8. Keep in mind there is a cost to administer and settle an estate, which is usually between two and six per cent of the total estate value.

PROBATE

Your total estate includes everything you own or have an interest in; however, not everything will be transferred through your *will* in the process of probate.

YOUR WILL GOVERNS:

- Property in your name alone.
- Property owned by you and others as tenants in common.
- Property payable to your estate because of your death.
- Proceeds from life insurance policies and retirement plans payable to your estate.
- Income to which you were entitled but had not received at the time of death.

YOUR WILL DOES NOT GOVERN:

- Real estate and bank accounts held in joint tenancy.
- Life insurance proceeds paid to named beneficiaries.
- Pension benefits paid to a spouse or children.
- Property held in trust.

You can reduce the amount of your estate that must be probated by using a number of strategies. One is to hold assets – such as property and bank accounts – jointly with someone who you want to receive the property after your death. However, the reduction of probate taxes should not drive your planning process. Also, there are significant legal implications in establishing joint property that must be carefully thought through to avoid unintended and costly consequences. Consultation with a lawyer is vital in this situation.

DEFINITIONS

Joint Tenancy - On the death of one owner, full property title passes to the surviving owner(s).

Tenants in Common - On the death of one owner, that share passes to his/her heirs.

Probate - The process of administering the estate of a deceased person under the supervision of the probate court.

PROBATE TAXES

At the time of printing,
probate taxes are as follows:

NOVA SCOTIA

Estates up to $10,000 = $83.10
$10,001 to $25,000 = $208.95
$25,001 to $50,000 = $347.70
$50,001 to $100,000 = $973.45
$100,001 & above = $973.45 plus $16.45 for every $1,000 or fraction thereof in excess of $100,001 (1.645%)

PRINCE EDWARD ISLAND

Estates up to $10,000 = $50
$10,001 to $25,000 = $100
$25,001 to $50,000 = $200
$50,001 to $100,000 = $400
$100,001 & above = $400 plus $4.00 for every $1,000 or fraction thereof in excess of $100,001 (0.4%)

NEW BRUNSWICK

Estates up to $5,000 = $25
$5,001 to $10,000 = $50
$10,001 to $15,000 =$75
$15,001 to $20,000 = $100
Over $20,000 = $5 per $1,000 (0.5%)

DIGITAL PROPERTY

One area of estate planning requiring careful attention is your digital property. This can include: email accounts, social networks, file and photo sharing sites, domain registrations, online shopping and bank accounts, as well as devices such as computers and mobile phones.

If you become incapacitated or die suddenly, what happens to these accounts and the information stored in them? Who will have access and the authority to update or close these accounts?

Identifying all the types of accounts and records, and their locations and access passwords, is the first step.

Next, you should carefully consider who you will entrust with access information. A discussion with your lawyer is essential to ensure that your digital property and existence will be handled effectively and securely, and in a way that reflects your wishes.

LIFE INSURANCE AS A PLANNING TOOL

Most people have some type of life insurance, but few understand what a flexible tool it can be for estate planning. Insurance is not just protection for emergencies. It can allow you to accumulate funds on a tax sheltered basis to supplement your retirement income. It can provide replacement income for your dependants if something should happen to you. Or it can help you and your family pay for anticipated future expenses such as your children's education.

TAXATION OF LIFE INSURANCE

Life insurance proceeds received on the death of the insured person generally are not taxable. This is the reason life insurance is so valuable. It provides tax-free cash at a time when funeral expenses must be paid, and when your family members are distracted from their normal activities. The proceeds of a life insurance policy can provide a financial cushion at such a stressful time.

Policies that accumulate a cash value can be surrendered for the cash, but this will have tax consequences. Your insurance broker can help you determine the tax implications. But again, the death benefit of a policy is generally not taxable.

POSSIBLE BENEFICIARIES

Most people think of family members as beneficiaries of an insurance policy. However, it is also possible to name your estate or a charitable organization as beneficiary, or even to create a trust with life insurance proceeds. These options are briefly described below.

ESTATE

Naming your estate as beneficiary of a life insurance policy provides liquidity that can be very helpful, particularly if significant taxes will be due in the year of death. Proceeds of the policy will be part of the probated estate and therefore subject to probate fees.

FAMILY MEMBERS

Spouses and children are the most frequently named beneficiaries of insurance policies; usually purchased as a means of providing for their financial security. For most policies, it is possible to name a primary beneficiary, such as your spouse, and contingent beneficiaries – other family members – in the event your spouse does not survive you.

CHARITABLE ORGANIZATIONS

Naming a charity as beneficiary can allow you to make a **substantial charitable gift at a modest cost**. This can be done either by changing the beneficiary designation of an existing policy or by purchasing a new policy. Because beneficiary designations can be changed – unlike assigning ownership of a policy, which is irrevocable – naming a charitable organization as beneficiary does not qualify you to receive a donation receipt. However, if the charity remains the beneficiary, it will issue a donation receipt to your estate when it receives the death proceeds. This charitable donation receipt can reduce the taxes payable on your final tax return.

Ownership of a new policy, or an existing one with premiums still owing, can be transferred to a charity to create a future gift of the death benefit. Because ownership has been irrevocably transferred, any premium payments are considered to be a charitable gift and a tax receipt is issued for the payments.

INSURANCE TRUST

A life insurance policy normally pays the death benefit to your estate or to a named beneficiary. If it is paid to your estate, it will be subject to probate fees and possibly to any legal action against the estate. It is possible to direct the policy's death benefit to be held in trust by a trustee that you name. You may further direct the trustee to hold the proceeds for a specific time before paying it out to a named beneficiary, or to pay out when the beneficiary reaches a certain age. Under the terms of the insurance trust you may also direct the trustee to control the way in which funds are used by, or for the benefit of the beneficiary. This may be particularly useful if the beneficiary is a minor, has a disability, or is otherwise not capable of managing money.

"You will find, as you look back on your life, that the moments that stand out are the moments when you have done things for others."

~ Henry Drummond

WEALTH REPLACEMENT STRATEGY

Some individuals who arrange a gift to a charity – whether in the form of cash, securities, real estate, etc. – are concerned about diminishing the legacy intended for their heirs. One possible way to resolve this dilemma is to purchase life insurance having a face value equal to the asset you are donating, and name the children (or other heirs) as the beneficiaries. If the asset is given to a charity outright, the tax credit for the gift might be large enough to offset the cost of the premiums needed to purchase the insurance policy.

EXAMPLE 1: MAURICE AND LEONA

Maurice and Leona want to contribute some stocks valued at $100,000 to their favourite charity, but don't want to reduce their children's inheritance.

The tax credit from the gift amounts to approximately $50,000 (50% of $100,000), which they spread over several years. They use this tax saving to purchase a "second-to-die" policy that will pay $100,000 to the children when the surviving spouse dies.

If Maurice and Leona decided not to make an outright gift, they could contribute an asset to a charitable remainder trust (see page 26). This would allow them to receive both income for life and a one-time donation receipt for the present value of the trust principal that will eventually be distributed to the charity. The trust income could be used to offset the premium cost of a life insurance policy payable to their children, thereby replacing the value of the asset in the future for their heirs.

EXAMPLE 2: DAVID AND HAZEL

At ages 68 and 67, David and Hazel contribute bonds valued at $200,000 to a charitable remainder trust.

They receive the net income from the bonds, which in this case is $14,000 per year. Moreover, they are entitled to a donation receipt for $48,247 (based on the calculated value of the future gift to the charity). Assuming the combined federal/provincial tax credit is 50%, this receipt provides a tax credit of $24,123.

They then purchase a $200,000 life insurance policy, naming their children as beneficiaries. They use the amount saved through the tax credit, plus some of the trust income, to pay the premiums. Through this arrangement they make a future gift to the charity, protect their heirs, and preserve adequate cash flow for themselves!

CONCLUSION

Life insurance can play many roles in financial and estate planning. It can provide financial security for young families, and a more comfortable retirement as parents grow older. It can pay funeral expenses or fund capital gains tax liability that arises in an estate. It can be transferred as a gift to a family member or a charitable organization.

Your need for insurance will change as your income, assets and family dynamics change. By thinking of insurance as a flexible, rather than a fixed asset you can use it to meet your family's needs and accomplish other goals that are important to you during your lifetime and beyond.

BALANCE SHEET

This balance sheet can help you estimate the value of your estate, including both assets and debts owing.

Date:

Assets:

	You	Your spouse
	$	$
	Personal residence	
	Other real estate (list below)	
	Personal property	
	RRSPs	
	RRIFs	
	RPPs	
	Stocks and bonds	
	Life insurance	
	Business interests	
	Bank accounts	
A	**Total Assets** $	$

Liabilities:

	You	Your spouse
	$	$
	Credit cards	
	Personal loans (list below)	
	Business loans (list below)	
	Mortgages	
B	**Total liabilities** $	$
	Net worth (A – B) $	**$**

TAX PLANNING

Currently, there are no estate or inheritance taxes in Canada. Nevertheless, there are tax implications on death which can have considerable impact on your estate and your heirs.

DEEMED DISPOSITION

In Canada you are deemed to have disposed of all your property at fair market value, the instant before death. This is called *deemed disposition*. Vacation property, stocks, mutual fund holdings, and other capital property may have increased in value significantly since you first acquired them. This increase in value is called *capital gain*. Current tax law requires you to pay income tax on 50 per cent of any *capital gain* triggered by *deemed disposition*. This extra income will be subject to income tax on your final tax return prepared by your executor. For many people this can add up to a considerable cost.

There are some exceptions to *deemed disposition* including your principal residence and some property that may be rolled over to your spouse on a tax-deferred basis until their death. Planning ahead for *deemed disposition* can help you reduce the amount of tax owing by your estate.

CHARITABLE GIFTS IN THE WILL (BEQUESTS)

Arranging a charitable gift in your *will* for a favourite charity can be an important part of your estate plan. The bequest will provide a tax credit on your final tax return, which will help to offset income taxes. *(Tax implications of charitable bequests are described in more detail on page 29).*

REGISTERED FUNDS

Your registered funds, such as RRSPs and RRIFs, have grown in a tax sheltered environment during your lifetime. However, upon death the full value of the fund will become taxable income on your final return. You can defer this tax by transferring the plan to your spouse through your *will* (or by designating him/her a beneficiary under the plan). This means the tax won't be assessed until your spouse disposes of the fund or until his/her death.

For those who may have adequate retirement assets from other sources, designating a charity as beneficiary of a RRIF can be a way of avoiding the income tax due while still providing for heirs.

CONSIDER THE FOLLOWING EXAMPLE:

If RRIFs or RRSPs are designated to children or other heirs, approximately one half will disappear in the form of income tax. If a charity is the designated beneficiary, on death the charitable tax credit will offset the income tax due. Other non-taxed assets, such as GICs or bonds, could be left to heirs.

Clearly, most people will want to plan for this *deemed disposition* to reduce the impact of the *capital gains tax* and to retain as much value as possible in their estate for their heirs.

THE FAMILY COTTAGE

Your cottage property may have increased in value since you first acquired it, and because of *deemed disposition,* your heirs may be forced to sell the property to pay the income taxes owing (due to the tax on the *capital gain).*

To address this problem, you could purchase a life insurance policy payable to your heirs in anticipation of the tax bill, so the death benefit will be available to cover the taxes owing.

Alternatively, it may be possible to arrange a life insurance policy with the death benefit payable to a charity. When the death benefit is paid, your estate is issued a tax receipt for the gift. The charitable tax credit for this gift could offset the income tax from the *deemed disposition* of the cottage. In this scenario you have saved your heirs income tax and provided a charity with a future gift.

See pages 5 and 25 for more information on life insurance. Once again, professional advice is required to properly structure your estate plan to your best advantage.

ADOPTING A CHARITY

Many people with children will want to divide their estate equally between their children upon the death of the surviving spouse. One way to use the charitable tax credit to support a gift to your favourite charity is to think of the charity as an "additional child" in your *will* by assigning to the charity an equal share of your estate. The benefit of the tax credit from the charity's portion of your estate will be divided among your children, so the reduction in their share due to the gift will not be as great. And you will be supporting the work of your favourite charity too!

EXAMPLE

If you have three children whom you want to equally share the residue of your estate, they each will receive one-third or 33 per cent. If you were to add an equal share to a charity, then your three children and the charity each would receive 25 per cent – which is a reduction of about eight percent for each child. However, the tax credit earned from the charity's portion makes more of the residue available for distribution. This means your children's share will be reduced by only about five per cent, not the eight per cent as would be the case without the tax credit.

PROFESSIONAL ADVICE

There may be other planning opportunities that could reduce your tax liability on death. Some of these opportunities can include a gift to a favourite charitable cause. You should consult with a professional advisor who can assist you to minimize the tax impact on your estate, and perhaps suggest ways your estate plan could support a charitable gift.

If you are considering a gift to the QEII Foundation, our charitable giving advisors are available to work with you and your financial and legal advisors to ensure you achieve your planning goals.

YOUR WILL

A *will,* along with a *power of attorney* and *health care directive,* make up the three key documents of estate planning. The *will* provides instructions about what you want done with your property after your death. Making a *will* is the only way to make sure your property is distributed as you wish.

We all have good intentions, and many of us have *wills* – not quite finished! Making a *will* is something we know we should do, but often put aside until it's too late. Sometimes we begin the process but don't finish it – the *will* is written but not signed.

The lack of a proper *will* can have unintended consequences: treasured personal possessions are distributed in accordance with impersonal laws; heirs experience needless expense and emotional distress; opportunities to express one's values and convictions through special charitable bequests are lost.

Fortunately, preparing a clear and effective *will* is not difficult. In less time and with less expense than you think, you can have the satisfaction of knowing that you have ensured your wishes will be followed. Let this booklet be your guide as you do what you have for so long intended.

LIFE STAGES AND WILLS

Once written, a *will* should be reviewed every five years or so, or when there has been a significant financial or personal event in your life. A *will* written when we have young children may not reflect our wishes when we are grandparents. A *will* prepared when we are single may not reflect our wishes once married. In fact, the law currently states that a will becomes invalid upon marriage unless the *will* specifically anticipates the marriage.

WHEN TO UPDATE A WILL

Events in our lives often require a change in our wills. Any of the following may require a will update:

- Birth of a child or grandchild.
- Significant change in financial status.
- Change in marital status.
- Change in province or country of residence.
- Sale or purchase of property.
- Death of a beneficiary, personal representative (executor), trustee or guardian.

Updating your *will* is an opportunity to leave a bequest to your favourite charity.

DYING WITHOUT A WILL

Dying without a *will* is called dying *intestate*. Should this happen to you your estate will be managed according to the provincial *intestate law*. This law determines who is to receive what assets and the timing of the transfer. The courts also will appoint an administrator who will need to be bonded through an insurance company unless this requirement is waived by the *probate court*. The larger the estate, the higher the cost. All this will create delays and expenses that will be borne by your estate, reducing what is left for your heirs.

It is possible you would be satisfied with the court's choice of administrator and the division of your property by law, but it is likely you would not.

In making a *will* you exercise your fundamental right to choose what to do with the accumulations of a lifetime. Nevertheless, if your *will* is not part of a general estate plan, your wishes could still be frustrated – even to the extent of disinheriting those you most want to help. An asset you placed in joint tenancy (joint ownership) with one of your children because you intended it to go to them following your death, could instead be deemed to belong to all your children as part of your estate. A charitable bequest you intend to make could go unmade because your *will* specified particular securities which have since been sold and replaced by other property.

Good intentions are not enough to ensure that property goes to the ones you wish. Make sure your estate plan integrates property governed by your *will,* property in trust and property that passes to a beneficiary(ies) under a joint tenancy arrangement. Revise your *will*, and make necessary changes when you acquire or dispose of major assets. And of course, select as your *executor* someone who is trustworthy and competent, and who understands your wishes and values.

CONSEQUENCES OF DYING WITHOUT A WILL

- You may have wanted your children to receive your property only after your spouse's death - not receive a portion of it now as dictated by provincial law.
- You may not want your underage children to receive their full share at the age of majority. (In Nova Scotia and New Brunswick, age 19; Prince Edward Island, age 18).
- You may have preferred to give some children a larger portion because of special needs, not equal shares as provincial law requires. Or perhaps you wanted to prepare a special trust for children with special needs.
- You may have chosen to leave legacies to some special friends rather than the distant relatives stipulated by the provinces' rigid rules for next-of-kin succession.
- You may have intended to leave a bequest to a charity that played an important role in your life, but the laws of intestacy make no allowance for charity – except the province itself in the case you have no surviving relatives.

BENEFICIARIES OF YOUR ESTATE

A) YOUR SPOUSE

A common reason why people do not write a *will* is that they believe their assets will automatically go to their spouse; however, provincial *intestate* legislation generally divides estates equally between the surviving spouse and children. If the children are under-age, their share will be held in trust until the age of majority (N.S. and N.B., age 19; P.E.I., age 18) and then distributed. This could create significant financial difficulties for your spouse. Also, the law does not differentiate between the spouse of a first and subsequent marriage. You may not want a significant portion of your estate to be permanently disbursed to a second spouse.

Under a *will,* a *testamentary trust* can be created where assets are used to fund a legal trust, managed by a trustee, that will provide income to meet your spouse's future needs. The trustee can be given the authority to disburse some or all of the capital of the trust if needed and stipulate the conditions under which this disbursement takes place. Upon the death of the beneficiary of the trust, the *will* can determine who is to receive the remaining assets of the trust. For example, this could be a charity or other relatives.

A trust is particularly useful in situations where the surviving spouse may not be capable of handling finances independently due to age, illness or some other reason. A lawyer knowledgeable in trust law should be consulted.

B) YOUR CHILDREN

Most people leave the bulk of their estate to their spouse, and upon their death the estate is divided among the surviving children. If your children are too young to receive their share, you can appoint a trustee to hold each child's share, or all the children's shares, in a trust until they reach a certain age. The trustee can be directed to use the trust assets for the benefit of the children. If you have more than one child, you can direct that proceeds of your estate be kept in a single trust until the youngest reaches a chosen age. Then, whatever is left in the trust can be divided equally among the children under the conditions you determine. For example, the proceeds can be held until all the children are educated to a standard determined by the guardian.

If a child's share is expected to be substantial, you could direct it to be given in stages – part at one age and the balance at a later age, or perhaps at a certain event in their life.

YOU SHOULD CONSIDER:

- How much flexibility will the trustee have as to use of the income and the capital of the trust? Will the capital of the trust be available to the children upon demand or only under certain circumstances?

- It is not necessary to anticipate every possible circumstance. You can give the trustee the power to encroach upon the principal but provide general guidelines governing when this could happen, or leave the decision at the discretion of the trustee.

- If a child dies before receiving the balance of his/her share, who will receive what is left? His/her children? His/her spouse? As he/she directs in their *will?* Your other descendants?

If a child is incapable of managing what they receive, a *discretionary trust* can be established for the lifetime of the child, with the balance at his/her death disbursed to other family members or charity. Care must be taken to select appropriate successor trustees in the event the first trustee dies. In the case where a child will likely outlive the first trustee, a trust company could be considered.

Guardians — A *will* offers you the opportunity to name a guardian of your underage children, should both you and your spouse die. Naming a guardian will avoid disputes among family members with the court having to decide. It is a good idea to appoint a separate guardian and trustee to avoid the possibility of a conflict of interest. It is also important to check with the individuals you name to ensure they are willing and able to act.

(C) DEPENDENTS

Under law you have a responsibility to provide for your dependants, as well as your spouse and other family members. Even adult children may have a legal claim to your estate. That is why it is important to consult a lawyer to ensure your *will* is properly drafted.

(D) OTHERS

You may make a specific bequest to someone in your *will*, either as an outright gift or within a trust, and with or without conditions. This gift may be either a set amount or a percentage of the residue of your estate. If you have no immediate family, you need to carefully consider who you want to share in your estate. Often in these circumstances individuals will name a favourite charity. It is essential that the correct legal name of the organization is used to avoid confusion and to ensure that your intended charity receives the gift.

ENSURING THAT EACH HEIR IS TREATED APPROPRIATELY

If you have minor children (N.S. and N.B, under age 19; P.E.I, under age 18) you may want to establish a trust for their care, in the event that both you and your spouse were to die. Principal distributions of your trust could be delayed until whatever age you judge the children to be mature enough to receive them.

If you have one child who manages money well and another who doesn't, you could leave one a lump sum and the other a stream of income through a trust or annuity. Likewise, if you have a child with disabilities, the best arrangement may be a trust in which the trustee has discretion to make capital distributions for special needs and residential care.

When there are children by a previous marriage, a common problem is how to provide adequately for the surviving spouse while ensuring that the property (any estate assets) eventually gets to your children.

Simply bequeathing your property to your spouse, or placing it in joint ownership with right of survivorship, could cause your children to be disinherited if the surviving spouse:

- Dies without a valid *will*, in which case all the property would go to his or her next of kin;
- Remarries and transfers the property to the new spouse; or,
- Makes a new *will* leaving most of the property to his/her relatives and preferred institutions.

The solution may be a spousal trust created under your *will*. It pays all of the income from the trust property (and some principal, if you so choose) to your spouse. At his/her death, the remaining principal is distributed to your children.

PERSONAL AND HOUSEHOLD EFFECTS

You may have special items you want to give to particular people. There are several ways to handle this and it is important to discuss your wishes with your lawyer. You could outline your wishes in your *will*; however, this can lead to difficulties if you have disposed of these items before your death or they can not be found. You may also want to change your mind, which would require a change to your *will*. An alternative is to draw up a list of items and the intended recipient, and keep it with your *will*. The list is not binding upon your *personal representative* (*executor)* but it will be helpful to them in determining your wishes. Another method is to give your *personal representative* the power in your *will* to distribute the items as he/she sees fit.

YOUR PERSONAL REPRESENTATIVE (EXECUTOR)

The person you appoint in your *will* to administer your estate is called the p*ersonal representative* or *executor*. There is a considerable amount of work to settle an estate, yet many people will appoint a spouse or close relative to do this without giving much thought to the skills necessary. It is also important to obtain consent. *Personal representatives* may refuse to act so it is important to know this in advance. You should also consider an alternate representative in case your first choice dies before you or is unable or unwilling to act.

Personal representatives need to be honest, fair and have good judgment. The duties can be complex and will certainly last at least a year, and often considerably longer.

The personal representative is personally liable for the amounts distributed from the estate, and therefore must be very careful to obtain income tax clearance from Canada Revenue Agency (CRA) prior to distribution. There are many opportunities for conflict among family members and other beneficiaries of an estate. The *executor* needs to be able to meet demands and disagreements with an even hand, while keeping in mind the best interests of your estate. Appointing a trust company can be a prudent decision. Sometimes a trusted family member and trust company are appointed as joint representatives.

SOME DUTIES OF THE PERSONAL REPRESENTATIVE INCLUDE:

- Locating and reviewing the *will*.
- Communicating with beneficiaries.
- Locating and protecting all assets and registering them in the name of the estate.
- Protecting any business interests.
- Obtaining value of all assets and liabilities.
- Communicating with estate lawyer regarding all legal matters, including probate.
- Advertising for creditors.
- Paying all taxes, debts and bills.
- Providing an accounting of all income and disbursements of the estate.
- Distributing the estate.
- Handling any trusts and investments.

FEES

A *personal representative* is entitled by law to a fee for his/her service. Currently, the fee in Nova Scotia is a maximum of five per cent of the value of the assets passing under the *will*. In Prince Edward Island and New Brunswick, the fee is typically below five per cent. This is normally paid after the estate is settled, which can take at least a year or more. As a rule, the fee is considered taxable income. Trust companies usually will establish a fee arrangement with you when you create your *will*.

VISITING YOUR LAWYER

The following information should be gathered before you visit your lawyer. This will save time and expense, and keep you focused.

1. Make a list of every person for whom you have responsibility (e.g. minor children, aging parents and other dependants).
2. List the full legal name of every person, charity and church organization you would like to remember in your *will*.
3. Make a list of your significant assets and property – including bank accounts, investments, life insurance and retirement plans.
4. Make a list of all your debts and obligations.
5. Ask your chosen *personal representative*, guardian for minor children and trustee (if applicable) if they are willing to serve.
6. Take with you any existing *will*, *powers of attorney* and *health care directive*.
7. List any specific property or belongings you wish a particular person to receive.

COMMERCIAL WILL KITS

A *will* "kit" may be purchased for a small price. While a valid *will* may be created using the kit, it is not recommended that you use them. A *will* is a legal document that must be prepared properly according to law. An error could possibly disinherit your family or make the entire *will* invalid. The result could be that you are presumed to have died *intestate*. If you already have completed a *will* using a kit, you are strongly urged to have a lawyer review it with you.

The cost to have a *will* prepared by a lawyer will vary according to the complexity of the estate, but the fee is minimal when compared to the cost of dying without a proper *will*.

POWER OF ATTORNEY

The second key document of your estate plan is the power of attorney. It goes with your will and health care directive to make up a well-prepared plan. A power of attorney is a legal document that lets you (the donor or principal) give another person (the attorney) authority to act on your behalf. The attorney does not have to be a lawyer.

Giving someone a *power of attorney* does not limit you from acting on your own behalf. You still have control of your financial affairs and are free to deal with your property, money, and investments. A *power of attorney* ceases upon death of the donor, at which time the *will* takes over.

If you do not wish to give a relative or friend *power of attorney*, you can appoint a lawyer or trust company. Also, depending on the circumstances, the *Provincial Office of the Public Trustee* may agree to act as your attorney.

REASONS TO HAVE A POWER OF ATTORNEY

At any time during your life you might decide to give someone *power of attorney* to keep your affairs running smoothly while you are not physically able to do so yourself. This could be because you are ill or infirm; because you will be travelling or working away from home for awhile; or because you suffered an accident which has left you physically incapacitated. A *power of attorney* can be set up for a long or short time, and it can give either broad or specific powers to the person you select as *attorney*.

MENTAL INCAPACITY

If you become mentally incompetent, the power becomes invalid unless it is an *enduring power of attorney.* An *enduring power of attorney* is one that specifically provides for the power to remain in force if you become mentally incompetent.

For estate planning purposes, it is best to have an *enduring power of attorney.* Selecting a competent and trusted person as attorney now, gives you peace of mind knowing that someone who knows you and your values will be able to act on your behalf if you become mentally incompetent. If you do not have an *enduring power of attorney* and you become mentally incompetent, a guardian may have to be appointed by the courts to handle your affairs.

DEFINING THE POWERS

You choose what powers to give your attorney. A general *power of attorney* gives the attorney power to act in every capacity for you. A specific *power of attorney* gives the attorney power to carry out specific acts only, such as the power to sell land or access a bank account. You must be sure that a specific *power of attorney* gives your *attorney* enough power to complete the task. For example, the power to purchase a piece of land should include the power to sign all documents necessary to complete the purchase.

MEDICAL DECISIONS

Appointing someone to make medical decisions for you is a kind of *power of attorney*, but the documentation required to set this up varies from province to province. Laws in N.S., N.B. and P.E.I. let you give someone power to consent to medical treatment (or other care) on your behalf if you become mentally or physically incapable of giving consent.

In Nova Scotia and New Brunswick, your named *attorney* can make medical decisions for you if your *power of attorney* document gives them the authority.

In Prince Edward Island, your *power of attorney* document may not give this authority. Therefore, you are wise to prepare a separate document called the *health care directive (see page 19)*.

For all three provinces, the power must be in writing, signed by you and witnessed. The witness cannot be either the *attorney* or the attorney's spouse.

RISKS

Most people appointed as *attorneys* are honest and will do their best to manage your affairs in accordance with your wishes. However, an *attorney* could use your property for his/her own benefit. Or, the person may deal with property in a manner that goes against your wishes because he/she believes to know what is in your best interest.

Depending on the terms of the power, your *attorney* may be able to withdraw cash from your bank accounts, buy and sell investments, deal with your property and sign contracts on your behalf. If your attorney has power to deal with your bank accounts and investments, your bank does not have to tell you that cash is being withdrawn from your account. However, some banks may have a policy to tell you if large sums are being withdrawn.

You should carefully select your named *attorney* and make sure you know what your *power of attorney* is being used for. Your lawyer is the best source of information concerning the drawing of a *power of attorney* and the powers it provides.

THE ALTERNATIVE

If you become incapacitated without a *power of attorney* in place and something needs your signature, the court will have to appoint someone to act on your behalf. In P.E.I. and N.B. this is called a *committee* (pronounced COM-ee-tay). You likely will have no say in who is appointed and the process is costly in time and money. Fees for two physician assessments, legal fees, and court fees will all be incurred. Guardians may also have to be bonded (unless you use a trust company) which requires substantial insurance premiums. A seven to eight week delay is typical. A formal accounting of the money handled by the guardian may be required.

Having arrangements in place will give you peace of mind and provide your family with comfort – knowing they will be protected. This also will avoid placing them in a position of having to second guess your wishes.

By planning ahead, you can have your affairs managed in the way you would like, both during your lifetime and beyond.

HEALTH CARE DIRECTIVE & LIVING WILL

In addition to a *will* and power of attorney, you should prepare a *health care directive* appointing someone to make decisions about your personal care and medical care in case you become incapacitated in the future, either permanently or during a temporary illness.

Personal care issues include decisions about living arrangements, nutrition and support services. A document outlining wishes for medical care is sometimes called a living *will* and includes decisions about what type of medical treatments and interventions you want or do not want if you are unable to communicate your decisions.

An important part of a *health care directive* is the appointment of a person to act on your behalf, sometimes called a *proxy* or *delegate*. This will be a person whom you trust to make these decisions for you. The appointment becomes valid when you are no longer capable of giving consent to medical treatment or directions about your personal care. It is a good idea to appoint a substitute proxy in the event the original person is unable or unwilling to act.

Health care directives are governed by provincial legislation and cover different powers depending upon the particular province. In New Brunswick, the document is called *Personal Care Powers of Attorney,* but only directions covering your personal care are legally binding. New Brunswick does not recognize a so-called living *will* as a legal document; however, including wishes for medical care provides your doctor and family with a strong statement. If healthcare professionals know of your specific written instructions, they may follow your wishes.

In Nova Scotia, the *Personal Care Directive Act* allows you to appoint a delegate to direct both your personal care for things like nutrition, shelter, clothing, comfort and support services, as well as medical care and treatment.

In Prince Edward Island, the document is called a *health care directive* and only covers medical care and treatment (living will). It does not cover personal care issues.

The person you appoint as your *proxy* or *delegate* will assume significant responsibility. In addition to ensuring your written instructions are followed, in the absence of instructions he/she must make decisions based on previous knowledge of your values and beliefs. If your proxy does not know what you would have wanted, he/she must make a decision that is believed to be in your best interest. Also, if you name people in your directive that you want your delegate to speak with before making a final decision, then your delegate must do this.

If you are rendered incapable of making your own decisions and you do not have a proper directive in place, someone will be appointed. This could be a costly or time consuming process, and the appointed person may not be someone you would have wanted to make these decisions on your behalf.

FUNERAL PLANNING

In our society, death is an unpopular topic. Nevertheless, it is an unavoidable event and for the sake of those we leave behind, we should take the necessary steps to prepare. Doing so in a responsible and well-thought through manner can provide significant peace of mind, for us and for our families.

DECISIONS

After a death family members face four key sets of decisions:

- What do we do with the body?
- What services and merchandise do we purchase?
- How should the funeral service best acknowledge the death and celebrate the life?
- How do we memorialize the life?

THE BODY

1. Burial means that the body, in some sort of casket, will be placed in a grave plot. Costs will vary widely depending upon the location and the supplier.
2. Entombment is placing the body in a casket and then in an above-ground crypt. The costs are about the same as burial.
3. Cremation is an option chosen by a growing percentage of Canadians. Regarding cost, cremation may not be significantly lower than that of a traditional burial, depending upon options selected.
4. Donating the body for teaching or research purposes is possible through local medical schools. Dalhousie University in Halifax, N.S. accepts bodies for its medical school. Acceptance of the body will depend upon the need of the Medical School at the time. For more information, contact the Human Body Donation Program at 902 494 6850.
5. Organ donation for transplant is also possible. The state of the body will determine usefulness. Some conditions, like contagious diseases, obesity, trauma, recent surgery or emaciation will make donation impossible. Corneas, even of elderly persons, are welcomed. It is important to remember that a body from which organs have been removed will not be accepted for medical study, and the family will then have to arrange burial or cremation *(see resources, page 41 for contact information).*

MAKING FUNERAL ARRANGEMENTS

A funeral director can be very helpful in planning a funeral. Funeral homes offer a variety of services and can help to arrange the pre-payment of the funeral, if desired.

Funerals probably rank among the most expensive purchases you will ever make. A traditional funeral, including a modest casket, can cost $10,000 or more. Extras such as flowers, obituary notices and limousines can add thousands of dollars or more. If you do not communicate your wishes to your family, they will face considerable uncertainty and perhaps be tempted or persuaded to spend more for your arrangements than you might have wanted.

While most funeral providers are professionals who strive to meet their clients' needs and best interests, there are cases where families have been taken advantage of through inflated prices, overcharges and unnecessary services. Fortunately there are laws to make it easier to select only those services you need or want, and to pay for only those you select. Provincial regulations require funeral directors to give you itemized prices in person or, if you request, over the phone. The funeral provider must show you descriptions of the caskets or outer burial container and the prices before actually showing you the caskets. Many funeral providers offer various packages of commonly selected goods and services that make up a funeral. You may also buy individual goods and services rather than a package, which may include things you do not want.

REGULATIONS:

- You have the right to choose the funeral goods and services you want (with some exceptions). The funeral provider must state this right in writing on a general price list.
- If provincial or local law requires you to buy any particular item, the funeral provider must disclose it on the price list, referencing the particular law.
- The funeral provider may not refuse, or charge a fee, to handle a casket you bought elsewhere.
- A funeral provider that offers cremations must make available a choice of containers for the ashes.

ADVANCED PLANNING

You should consider a funeral plan to help relieve your family from some of the above decisions. This plan should be thought of as an extension of your *will* and estate plan. Consultation with a funeral director, and if you wish a religious service representatives of your faith, will ensure your wishes are known. Planning now will save your family considerable stress and possible conflict at a time when they will be most vulnerable. The time between a death and the funeral is not a good time to be negotiating costly items and locating a funeral director who is both reasonable and kind.

PRE-PAYMENT

It is possible to enter into a contract with a funeral provider to pre-pay your funeral expenses at today's costs and avoid the effects of inflation. The payment can be made by a lump sum or installments. The funeral provider holds this money under a legal trust arrangement governed by regulations under the federal Cemetery and Funeral Services Act and cannot access the funds until your death. These funds are protected from legal judgments against the provider or their insolvency. If the funeral home is no longer in business upon your death, the trust funds may be assigned to another funeral home.

It is important to let your family know of these arrangements (and where to find any documents), so that when the time comes they do not proceed with arrangements with another provider.

FINANCIAL ASSISTANCE

There are some possible sources of assistance to cover the costs of a funeral.

1. CANADA PENSION BENEFIT

If the deceased qualified by having an adequate wage earning record, certain death, funeral and survivor benefits may be available.

2. UNION OR EMPLOYER BENEFITS

These funds sometimes help to defray funeral costs. They may also allow a pension to the survivor.

3. INSURANCE

Life, health and accident policies should be examined for benefits. Sometimes, medical benefits from automobile insurance policies can be applied to funeral expenses.

4. FRATERNAL ORDERS OR PROFESSIONAL GROUPS

Funds may be available to you.

5. WORKER'S COMPENSATION

Certain benefits may be available if the cause of death is related to the deceased's employment.

6. VETERANS AFFAIRS CANADA

If you are a recipient of a *war disability pension* or war veteran's allowance you may be eligible for a funeral grant. If you are not eligible for a grant and your family or estate is unable to pay for the funeral, an application may be made for a *last post burial*. This should be discussed with the funeral director.

The Last Post Fund Corporation (LPF) is mandated to deliver financial assistance on behalf of Veterans Affairs Canada (VAC). The LPF is a non-profit organization which is closely associated with VAC and will provide an honourable funeral and burial, including a military style grave marker to eligible ex-service persons.

MEMORIALS

Today many people encourage memorial donations in lieu of flowers. This is an opportunity for family and friends to support worthwhile charitable work important to you while expressing sympathy for your family. Most charities, including the QEII Foundation, are pleased to accept these donations and will notify your family that a donation has been made. Don't forget to include a mailing address in the announcement.

CONCLUSION

You may be tempted to encourage your family to forego a formal funeral, perhaps in the hope that this will save them grief and expense. Certainly cost is a factor, but don't forget that a funeral is as much an event for survivors as it is for the deceased. A funeral can be a time of remembrance and sharing, and provides survivors an opportunity to receive much needed expressions of support from family and friends.

Through the pre-planning of your funeral you can ensure it will be a time of comfort to those you leave behind, and a reflection of your life and values.

CHARITABLE GIVING

The impulse to help others is an enduring human quality. This same perspective should influence the financial and estate plans that will serve you through the rest of your life. Indeed, you can look at your planning as a time to consider how your assets should be used, both now and after your death, in ways that will reflect your values.

Gifts may be arranged to provide immediate support for the charitable work that is important to you. Or a gift may be created to be available sometime in the future. There are many ways to arrange a gift to meet your needs and those of your family, yet speak of your values. Each method offers unique tax advantages. Therefore, you are encouraged to consult with a trusted advisor before finalizing your plans. The QEII Foundation's charitable giving advisors, working with your own professional advisor, can help you decide which strategy is best for you and your family.

CHARITABLE TAX CREDIT

When you arrange a charitable gift you receive a combined federal and provincial tax credit. The amount of the credit is applied directly to the amount of income tax you owe. Cumulative yearly gifts over $200 earn a combined tax credit of approximately 50 per cent, depending upon the province in which you live. Cumulative gifts under $200 earn a smaller credit percentage.

INCOME OVER $200,000

Effective January 1, 2016 a 33 per cent federal charitable tax credit was introduced that matches a new 33 per cent federal tax bracket, applicable to those with taxable income over $200,000. This new 33 per cent charitable tax credit only applies to the amount of annual donations that are less than, or equal to, the amount that the annual income exceeds $200,000.

You may claim charitable gifts up to 75 per cent of your net income. For gifts of capital property this limit is increased by 25 per cent of any capital gain triggered by the gift. Credits that you don't use in one year may be carried forward for up to five additional years. For gifts in your will, please see page 28.

GIFTS FOR THE PRESENT

1. CASH

An outright gift of cash may be used now to support health care at the QEII Health Sciences Centre, another favourite charity, or perhaps to establish an endowed (permanent) fund for a specific purpose.

EXAMPLE

Beatrice Johnston writes a cheque for $1,000 to the QEII Foundation. Her net cost of the gift is only $500 (assuming a 50 per cent tax credit, and that she also makes $200 in charitable donations elsewhere), because her donation receipt for $1,000 provides a tax credit of $500.

2. PROPERTY

You may donate real and other property. With some exceptions, one-half of any gain in value from when you originally acquired the property must be included in your taxable income. Your tax receipt will be based on an authorized appraisal of the current value of the property.

3. PUBLICLY-LISTED SECURITIES

Securities, such as stocks and mutual funds listed on approved exchanges, may be used to fund a gift. If such instruments are donated directly to the charity, rather than being sold and the cash donated, none of the capital gain is included in your taxable income. As the tax receipt is based on the market value of the donated security this type of gift can be better than cash from a tax perspective.

The QEII Foundation will be happy to assist you and your broker with a transfer of securities.

EXAMPLE

Henry Barteaux donates publicly listed stock valued at $50,000 that he purchased years ago for $10,000. His *capital gain* is $40,000, but because he is donating them directly, none of the gain is taxable. His contribution results in a tax credit of $25,000. Henry has saved the tax on the gain of his stock and his $50,000 gift has cost him only $25,000 (assuming a 50 per cent rate).

Suppose Henry had sold the stock instead of contributing it. The taxable portion of the gain would have been $20,000 (50% x $40,000), and the tax on this gain would have been $10,000 (50% x $20,000). His after-tax sale proceeds would have been $40,000.

Capital Loss — Perhaps your stock has lost value due to a market downturn. By donating the stock now you still receive a tax receipt for the full market value. In addition, you may carry back the loss for up to three years to offset any taxable gains that you claimed during that time. You also may carry forward the loss indefinitely to offset gains you may claim in the future.

4. ANNUITY GIFT

A *life annuity* is an arrangement in which you transfer a cash asset to an insurance company and in return receive guaranteed payments for life. The amount of these payments depends on your age and the size of your contribution, but they likely will be significantly higher than you are receiving from your present fixed income investments, and the annuity arrangement is guaranteed. It will continue as long as you live, no matter what happens to the economy or interest rates. If you are married, you may choose a *joint-and-survivorship annuity* which continues as long as you or your spouse lives.

By using a portion of your funds (e.g. 70 to 80 per cent) to purchase the annuity and using the remainder to donate directly to the QEII Foundation, you will increase your after-tax income and support a worthwhile cause.

Your gift *annuity* arrangement brings you a special bonus at tax time: all or a sizeable portion of your payments will be tax-free. You also will receive a one-time income tax receipt from the donation portion that will result in a tax credit.

Annuity gifts generally work best for those aged 70 or over.

EXAMPLES *(actual rates will vary)*

Wendell Conrad, age 74, has $25,000 in maturing GICs. He purchases an *annuity* with $17,500 and receives $1,950 (7.8 per cent) per year for life, of which 79 per cent is paid out tax-free. He donates the remaining $7,500 to the QEII Foundation and receives an immediate donation receipt of $7,500.

Clayton and Maise Bollivar, both aged 85, have $50,000 and use $35,000 to purchase an annuity. They receive a lifetime payment of $4,250 (8.5 per cent) per year – 100 per cent of which is paid out tax free. They contribute the remaining $15,000 for which they receive an immediate donation receipt.

5. GIFTS FROM TAX-SHELTERED PLANS (RRIF)

RRIF withdrawals are fully taxed. For those who have sufficient retirement income from other sources, combining the withdrawal of funds from a *RRIF* with the gift of publicly listed securities can be an effective way to remove funds from the plan without a net tax cost. Donating the securities and then making a withdrawal from the RRIF equal to the value of the contributed securities will provide a tax credit that offsets the tax on the withdrawal from the plan.

EXAMPLE

Contribution of stock	$100,000
Tax credit	$50,000
Tax on capital gain from stock	$0
Withdrawal from RRIF	$100,000
Tax on withdrawal of RRIF	$50,000
Net tax cost	**$0**

An annuity could be purchased with these proceeds, providing guaranteed annual payments for life, entirely or significantly tax-free and at a substantially higher rate than provided by fixed income investments. These payments could be used to support the education of grandchildren, provide for future nursing home costs or to make additional charitable donations.

GIFTS FOR THE FUTURE

1. GIFT IN YOUR WILL (BEQUEST)

Your *will* is the cornerstone of your estate plan. Through your *will* you direct the distribution of your estate, name the person(s) to act as your legal representative after your death, and ensure that the people and causes important to you continue to be supported in the future.

If you die without a *will,* your estate will be distributed according to provincial legislation; not according to your wishes.

One of the most loving and enduring ways of sharing is by creating a charitable bequest through your *will*. Instead of a fixed dollar amount, you may want to consider giving a percentage of your estate's residue (the amount leftover after specific bequests and expenses are paid - *see page 28*).

2. LIFE INSURANCE

When you purchase a *life insurance policy*, and make a charity both the beneficiary and owner, you will receive a tax receipt for the annual premiums paid. This allows you to make a substantial future gift at a considerably reduced after-tax cost.

Existing policies also may be donated to a charity. You will receive a tax receipt for the fair market value of the policy. While there may be a taxable gain to be reported as regular income when the policy is donated, the tax credit from the donation will equal or exceed any tax owing. Any subsequent premiums paid on the policy will be eligible for a tax receipt, as above.

A charity may be named a beneficiary of a policy without transfer of ownership. In this case an immediate tax receipt is not issued, but your estate will receive a tax receipt when the policy is paid upon your death. The receipt will produce a tax credit for your final tax return.

A life insurance policy naming a charity as beneficiary is processed outside of your estate and therefore, is not subject to probate fees or challenges to your *will (see page 5)*.

3. INSURED ANNUITY

As outlined on page 24, an *annuity* can allow you to substantially increase your after-tax cash flow. By purchasing an *annuity* and combining it with a *life insurance policy* assigned to a charity, you can arrange a very tax efficient, future gift.

The *annuity* provides the annual cash flow to pay the life insurance premiums. Because the charity owns the policy, the premiums are considered a charitable gift and a tax receipt is issued by the charity. The resulting tax credit reduces the after-tax cost of the policy. The charity receives the death benefit. Often the *annuity* payments substantially exceed the cost of the insurance policy. You could retain the excess for other expenses or purchase another policy to pay to your estate, or perhaps to a family member.

EXAMPLE

Dawson Dauphinee, age 73, uses $100,000 he currently has invested in GICs at 3 per cent to purchase an annuity. He also arranges a $100,000 life insurance policy that he assigns to the QEII Foundation.

Capital used to purchase annuity	$100,000.00
Monthly annuity payment	$750.00
Less: income tax on taxable portion of annuity payment ($50 x 50%)	25.00
Net monthly annuity payment	725.00
Less: cost of $100,000 insurance policy	327.00
Monthly net income after insurance cost	398.00
Plus: tax credit for insurance premiums ($327 x 50%)	163.50
Monthly after-tax annuity payment	**$561.50**

Dawson has substantially increased his after-tax cash flow and arranged a $100,000 future gift of life insurance.

4. REGISTERED RETIREMENT INCOME FUND

Tax sheltered plans such as *RRIFs* offer some creative approaches to charitable giving.

Upon your death, about half of your plan, with a few exceptions, including a spousal roll-over, will be given to the government through taxes for social spending. You could say that your designated heirs and Canada Revenue Agency will share your plan assets equally! The alternative is to direct the social spending yourself by designating a charitable recipient of the proceeds of your *RRIF*.

By naming a charity as beneficiary of your plan you will not only be supporting a worthy cause but the entire proceeds of the fund will be available to the charity with no net tax cost to your estate. This is because the tax credit your estate receives for the donation will offset the income tax payable on the withdrawal.

Of course, you may want a portion of the plan's value to go to family members. In this case a portion of the value could be donated to charity. While the remaining portion paid to family members will be subject to tax, the amount paid to charity will produce a tax credit offsetting taxes owing on that portion. Or you may direct the balance of your plan to charity and arrange gifts of other non-taxable assets, such as GICs for your heirs.

EXAMPLE

Balance in RRIF	$100,000
Amount of charitable gift	$100,000
Amount of plan included in taxable income	$100,000
Income tax payable (assuming 50% marginal tax rate)	$ 50,000
Tax credit for donation	$ 50,000
Net tax payable	**$ 0**

5. CHARITABLE REMAINDER TRUST

Some charitable gifts allow you to arrange a lifetime income for you and your spouse in exchange for the donation of the capital.

A *charitable remainder trust* is a deferred giving arrangement where assets are transferred to a legal trust. The trust document directs that the annual income generated by the trust is to be paid to you during your lifetime, and upon death a charity will receive the principal (remainder) of the trust.

If the terms of the trust don't allow you to access any part of the principal, an immediate tax receipt is issued for the calculated present value of the future gift (i.e. the remainder interest of the trust).

A similar trust called a *testamentary trust* may be set up under your will, perhaps to benefit your spouse during his/her lifetime, with the remainder ultimately paid to a charity.

EXAMPLE

At age 70, Martin Westhaver, a widower, wants to establish an endowed fund for cardiac research in memory of his late wife. He cannot afford to give up any of his investment income, so he transfers assets worth $250,000 to a Charitable Remainder Trust. His net income from this trust will be approximately $15,000 per year for his lifetime. When he funds the trust, he receives a donation receipt for $120,675 (representing the present value of the future remainder interest in the trust). Assuming a 50 per cent tax credit this will translate into tax savings of $60,337.50. After his death, the remaining trust principal will be used to create the permanent endowment.

6. RESIDUAL INTEREST

You may transfer ownership of an asset, such as your cottage, to a charity and retain the right to use the property during your lifetime. A receipt for the "calculated present value" of the gift is provided at the time of ownership transfer, and upon your death, possession of the property is given to the charity.

Please Note

The information and examples presented are based on income tax rates and laws current at the time of printing and are subject to change. You are strongly urged to consult with professional advisors to ensure your gift plan is appropriate for your circumstances.

GIFTS IN THE WILL (BEQUESTS)

By arranging a gift in your will, you can help strengthen the future of your community and make a difference to those in need.

Including your favourite charity in your *will* also has many tax incentives. If you are interested in learning more about this, we at the QEII Foundation encourage you to contact us. We also recommend you consult your own financial and legal advisor for a full discussion of the tax implications of charitable gifts as they apply to your situation.

Many people who would like to make a substantial charitable gift cannot afford to part with their assets during their lifetime. The drawing of a *will* and directing a portion of one's estate to charity is the most common type of future gift. That is because a bequest is revocable: your *will* may be changed at any time, should your circumstances require it.

GIVING THROUGH YOUR WILL

Making a *will* need not be complicated, and providing for a charitable gift in your *will* can be accomplished easily.

FORMS OF BEQUESTS

1. A general bequest designates a certain dollar amount of property, usually cash, to the charity you select: *"I give to (the QEII Health Sciences Centre Foundation) the sum of $10,000 to be used for its general purposes at the discretion of the Board of Trustees."*
2. A specific bequest directs that the charity is to receive specific property: *"I give to (the QEII Health Sciences Centre Foundation) 500 shares of XYZ stock...."*
3. A residual bequest designates for the charity all or a portion of whatever remains after all debts, taxes, expenses and other bequests have been paid: *"I give to (the QEII Health Sciences Centre Foundation) fifty percent (50%) of the rest, residue and remainder of my estate...."*
4. A contingent bequest takes effect only under certain conditions: *"In the event that my wife does not survive me, I give to (the QEII Health Sciences Centre Foundation) the sum of...."*

In addition to choosing the form of a bequest, you also have choices as to the purpose for which your gift will be used. Most bequests to charitable organizations are undesignated, supporting general purposes. But you may choose to direct your bequest to support a particular program or project. If you wish to designate your bequest, you should speak with representatives of the charity to ensure the designation can be honoured.

You may choose to endow or restrict your gift to the use of the annual investment return only, and you could choose to designate the investment return for a particular purpose, as above. It also may be possible (subject to the charity's policies) to establish a named fund in your own name, or perhaps as a memorial to a family member, friend or colleague.

If you are planning a bequest, it is important to confer in advance with a representative of the charity included in your *will*. This will ensure your wishes can be met and that your bequest provision is properly worded. Once you have

completed your *will*, you should provide each beneficiary organization with a copy of the clause pertaining to your bequest. Your intention will be kept confidential, if you wish.

POWER TO VARY CLAUSE

If your bequest is to be designated for a particular purpose, it is strongly recommended that you ask your lawyer to include a *power to vary clause*. Sometimes, well-meaning donors designate gifts for purposes that, over time, are no longer relevant and the gift cannot be used. To change the designation the charity must ask the courts for permission, which can be costly. The *power to vary clause* will allow the charity in the future to continue to use your gift to support its work in the event the original purpose is no longer possible.

POWER TO VARY CLAUSE SAMPLE WORDING

'If circumstances should, at some time, make it impossible, inadvisable, or impractical to use this gift for the designated purpose, then *[insert legal name of the charity]* may, in its discretion, use the investment return from this fund in such a manner as it may deem to be to the best advantage of *[insert legal name of the charity]* while adhering as closely as possible to my original intent."

TAX IMPLICATIONS OF A CHARITABLE BEQUEST

When you include a gift in your will to a charity, your estate is entitled to a charitable tax receipt for the full value of the bequest. The resulting tax credit may be claimed against 100 per cent of net income in your final lifetime return. Excess credits may be claimed against 100 per cent of net income in the year prior to death. This can significantly reduce the income tax payable by your estate.

New rules as of January 1, 2016 provide even more flexibility in claiming the tax credit, including up to five years after the year of death. Your legal advisor can provide you with details on how these rules will affect your estate planning.

EXAMPLE:

In his *will*, Clarence, a widower, leaves $100,000 to the QEII Health Sciences Centre Foundation and the remainder of his estate to his two children. Assuming the net income on his final income tax return is large enough for the entire bequest to be claimed for a charitable tax credit, the bequest may result in a combined federal and provincial tax savings of approximately $50,000. If he had left the $100,000 to his children, income tax could have consumed that part of it, leaving them with $50,000.

You should consider giving your *personal representative (executor)* the discretion to choose the particular assets that fulfill the charitable bequest. For example, if your *executor* is authorized to select publicly-listed securities to pay the charitable bequest, none of the gain in the securities will be subject to income tax.

Many individuals gain peace of mind and satisfaction in knowing they have provided, not only for their immediate families, but for the charitable organizations that enriched their lives and those of others.

TAX ELMINATOR CLAUSE

You may feel you cannot afford to arrange a bequest for charity as you want all of your assets to go to family. However, income taxes may still be payable upon your death diverting funds away from your heirs.

It is possible for your lawyer to include a clause in your *will* instructing your personal representative to calculate how much tax is owed in the year of death, plus how much income tax was paid in the year preceding death.

Given that tax amount, the *personal representative* is then directed to donate to a charitable organization an amount that is just enough to reduce the income taxes to zero, or as close to zero as possible. The clause can also be worded to allow you to set a maximum or minimum amount, notwithstanding the direction to minimize the taxes.

The total cost of the bequest to eliminate taxes will still be more that what would have been paid in income tax. But, it is a way for you to make a much more significant gift than what may have otherwise been considered.

"To laugh often and much, to win the respect of intelligent people and the affection of children, to earn the appreciation of honest critics and endure the betrayal of false friends, to appreciate beauty, to find the best in others, to leave the world a bit better, whether by a healthy child, a garden patch, or a redeemed social condition, to know even one life has breathed easier because you have lived, THIS is to have succeeded."

~ Ralph Waldo Emerson

OUR COMMITMENT TO YOU

A gift in your will supporting the QEII Foundation is a personal statement of the values you have embraced throughout your life. We respect the decision you have made and will adhere to your wishes. This is our commitment to you.

1. We will always respect your privacy. Information obtained from you, related or unrelated to a gift, will be held in the strictest of confidence.
2. We realize that your family and loved ones will always come first.
3. Because we are committed to making a difference in the lives of Atlantic Canadians, we always encourage people to consider a gift in their will to the QEII Foundation. We recognize this is your decision and you need to make it in your own time.
4. We would love to hear that you have included a gift in your will to the QEII Foundation so we can properly thank you, but you don't need to tell us.
5. If you do tell us, we will provide appropriate acknowledgment and recognition for your gift, with your permission.
6. You have the absolute right to change your mind about a gift in your will, the right to ask questions and to receive prompt, truthful, and forthright answers.
7. Gifts directed to the area of greatest need are the most flexible. However, if you want to direct your gift to a particular treatment or research area, we will work with you and your lawyer to find the appropriate wording, enabling your gift to make a difference for those who depend on the QEII.
8. We will give you the opportunity to be connected with the work we do; work that is made possible by gifts like yours.
9. We will use your gift both carefully and cost effectively so it has the greatest impact on patients at the QEII.
10. We will handle your gift and your wishes with care, sensitivity and respect.

QEII
HEALTH SCIENCES CENTRE
FOUNDATION
health begins with caring

FINAL ARRANGEMENTS

A letter regarding my final arrangements

To whoever takes responsibility for my final arrangements

I have given thought to my personal wishes about my final arrangements with the hope that by making these wishes known, it will minimize the emotional strain on my survivors.

While I feel my loved ones would appreciate knowing my wishes to help them make decisions, I do not want to impose anything on them. Therefore, unless I have made special mention, I encourage them to ensure my funeral and other arrangements are done in a way that is meaningful to them.

Although these wishes may not be legally binding, I trust they will help my survivors avoid confusion, extra expense, or at the least, any self-reproach that might arise because of doubts, omissions or commissions.

I also have assembled much of the financial and other information that will be needed at the time of my death. I hope this will lighten the task at this emotional and difficult time.

Thank you to all who have assured these arrangements.

Signature _____

Name _____

Address _____

_____

_____ PC _____

Date _____

MY PERSONAL DETAILS

Important information for my family and personal representative

Full name: _____

Address: _____

_____ Postal code _____

Birth date: _____

Place of birth: _____

Baptism date: _____

Spouse / Partner's name : _____

Address: _____

_____ Postal code _____

Birth Date: _____ Place of birth: _____

My church affiliation: _____

Name of home church: _____

Address: _____

_____ Postal code _____

File this information in a secure place, but also one where it will be found easily upon your death. It is suggested that you also file this with your lawyer and notify your heirs that the form has been completed.

Parents

Father's full name: _____

Birth date/place: _____

Living? ❑ YES ❑ NO

Mother's full name: _____

Birth Date/Place: _____

Living? ❑ YES ❑ NO

Contact information for family

Location of address book _____

Names, addresses, and phone numbers of living parents, brothers and sisters:

1. _____ ph _____
   address _____
2. _____ ph _____
   address _____
3. _____ ph _____
   address _____
4. _____ ph _____
   address _____
5. _____ ph _____
   address _____
6. _____ ph _____
   address _____

Addresses
We recommend keeping an up-to-date address and telephone book. This can be a big help in notifying others in times of emergency.

Names, addresses, and phone numbers of living children:

1. _____ ph _____
   address _____
2. _____ ph _____
   address _____
3. _____ ph _____
   address _____
4. _____ ph _____
   address _____
5. _____ ph _____
   address _____

Names, addresses, and phone numbers of other persons to notify upon my death:

1. _____

2. _____

3. _____

4. _____

5. _____

Emergency care

The following nearby person(s) has agreed to temporarily care for:

My family: _____

Phone: _____

My pets: _____

Phone: _____ _____

Addresses _____

_____ Postal code _____

Employer

Name _____

Address _____

_____ Postal code _____

Social insurance number: _____

Provincial health card number: _____

Canadian Forces Service:

❑ YES ❑ NO (Entitled to veterans' benefits: ❑ YES ❑ NO)

Service Branch Contact: _____

Phone: _____

Important papers

To help avoid undue frustration in finding items needed in establishing rights to insurance, pensions, ownership, relationship, etc., note the location of these and any other important documents.

My lawyer: _____

Address _____

_____

ph _____

Last *will* executed on: _____ (date)

Will is located at _____

Executor(s) (names / addresses):

1. _____

_____

2. _____

_____

Powers of Attorney for property and for personal care (names / addresses):

1. _____

_____

2. _____

_____

Bank accounts/savings institution accounts/ Other income-producing accounts:

Name of institution / type / account number

1. _____

_____

2. _____

_____

3. _____

_____

4. _____

_____

Joint accounts:

Name of institution / type / account number

1. _____

2. _____

3. _____

4. _____

Safe deposit box number & location: _____

Location of safe deposit box key: _____

Other key holders: _____

Key advisors (names/address or phone)

Clergy: _____

Accountant: _____

Financial / investment / estate advisor: _____

Insurance broker: _____

Life insurance

Life insurance co. / amount / certificate number/ beneficiary

1. _____

2. _____

3. _____

RRSPs, RRIFs, pensions

Company / account number / beneficiary

1. _____

2. _____

3. _____

Credit and charge accounts

Company / account number

1. _____

2. _____

3. _____

4. _____

5. _____

Organizations and affiliations

Organizations / associations / societies / unions/lodges / professional associations, etc….

(Include past/present office or position, and indicate if organization is to be notified).

Organization

Notify:

1. _____ Yes / No
2. _____ Yes / No
3. _____ Yes / No
4. _____ Yes / No
5. _____ Yes / No

Personal effects

Below is a list of personal effects (e.g. clothes, jewelry, paintings, etc.) and my wishes on how I would like them distributed, unless otherwise specified in my *will*.
(Note: This list expresses my preferences, but is not a will and has no legal standing.)

An additional page of personal effects is attached: ❑ YES ❑ NO

Important papers

The following documents can be found at the locations indicated below:

H = Home (location described)
D = Safe deposit box (bank location)
L = Lawyer (name)
O = Office (location described)
P = Other person or place (name)

_____ Marriage license

_____ Citizenship papers /passport

_____ Bill of sale for car/title, reg.

_____ Bank books /Interac card(s)

_____ Deeds to property

_____ Income tax returns

_____ Receipts/cancelled cheques

_____ Military discharge papers

_____ Legal proof of age/birth certificate

_____ Survivor's pension information

_____ Stocks

_____ Will

_____ Insurance policies

_____ Representation agreement

_____ Power of attorney

_____ Automobile information

_____ Passwords for computer and/or banking cards

Miscellaneous

This does not replace a properly prepared will.

Thoughts / notes / reflections or instructions

RESOURCES

LEGAL INFORMATION

Nova Scotia
Legal Information Society
5523B Young St, Halifax, NS B3K 1Z7
902 454 2198 or 800 665 9779
legalinfo.org

Prince Edward Island
Community Legal Information Association of PEI
Royalty Centre, Room 111
40 Enman Crescent, Charlottetown, PE C1A 7M8
902 892-0853 or 1 800 240 9798
cliapei.ca

New Brunswick
Public Legal Education & Information
Service of New Brunswick
PO Box 6000, Fredericton
New Brunswick E3B 5H1
506 453 5369
legal-info-legale.nb.ca/

VETERANS AFFAIRS CANADA

1 866 522 2122
veterans.gc.ca

CANADA PENSION

canada.gc.ca (search "pensions")
Service Canada Toll Free: 1 800 277 9914

ORGAN DONATION

Nova Scotia
MSI Registration Department
902 496-7008 or 1 800 563 8880
gov.ns.ca (search "donate organs")

Prince Edward Island
Island Information Service
902 368 4000
healthpei.ca/organandtissuedonation

New Brunswick
Organ Donation Program
506 643 6848 or 1 888 762 8600
gnb.ca (search "organ donations")

DALHOUSIE UNIVERSITY

Human Body Donation Program
Department of Anatomy and Neurobiology,
Faculty of Medicine, Dalhousie University,
Sir Charles Tupper Building, Halifax, NS B3H 1X5
902 494 6850
anatomy.dal.ca/donation/

QEII HEALTH SCIENCES CENTRE FOUNDATION

Charitable giving advisors:
Geoff Graham
geoff.graham@qe2foundation.ca
902 442 7196

Lori Scott
lorij.scott@qe2foundation.ca
902 442 7199

Katharine Berrington
katharine.berrington@qe2foundation.ca
902 442 7146

5657 Spring Garden Road,
Park Lane Mall, Box 231, Halifax, NS B3J 3R4
902 334 1546
QE2Foundation.ca

FUNERAL PLANNING

Nova Scotia
Funeral Service Association of Nova Scotia
fsans.com
902 783 2467
info.fsans@bellaliant.com

New Brunswick
NB Funeral Directors & Embalmers Association
nbfuneraldirectors.ca
nbfdandea@nb.aibn.com

Prince Edward Island
gov.pe.ca (search "prearranged funeral plan")

NOTES

NOTES

QEII
HEALTH SCIENCES CENTRE
FOUNDATION

301-7051 Bayers Road
Halifax, Nova Scotia B3L 2C1

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QE2Foundation.ca
info@qe2foundation.ca

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health begins with caring