

1) Q - Why do I need a Will?

A – So that you can plan appropriately for the disposition of the property that you have worked all your life to amass. To ensure that your loved ones get the benefit of your labour.

2) Q – What will happen if I don't have a Will?

A – The government has a scheme for disposition of estates in the Succession Law Reform Act and your property will be divided based on a formula that is set out in legislation. This may not be the way you wish your property to be divided.

3) Q – What is an executor?

A – An executor is a person you name or appoint in your Will to ensure that your wishes, as expressed in your Will, are carried out after your death.

4) Q – Who should I name as an executor?

A – An executor can be a family member (loved one) or a profession (ie, lawyer or accountant) or a corporation (ie Trust Co. or Investment firm). A loved one or trusted friend will usually not charge the estate a fee for work performed but a professional or corporation most certainly will charge a fee. It is after all a performance of their professional obligations. An executor should be one you trust who has the emotional and intellectual capacity to deal with all the issues that may be involved in settling your estate. It should be someone who preferably lives in or near the area that you live for they will have to be present to administer the estate.

5) Q – What can I do with my estate?

A – You can

- a) make special bequests to individuals
- b) make special bequests to charities
- c) set up trusts for minors or disabled dependent adults
- d) name who you wish to receive all or part of your estate

6) Q – How can I avoid taxes?

A – Use RRSP's to have the benefit of tax-free spousal roll-over and designate beneficiaries for Life Insurance policies, this ensures that the money never gets into the estate.

- Take out a special Life Insurance policy with the estate as beneficiary specifically to pay taxes.

7) Q - Can I do my own Will?

A – Yes, but it should be holographic, that is, all in your own handwriting or it requires 2 witnesses who are not beneficiaries or related to beneficiaries, who must watch you sign your Will and then sign and print their names and addresses as Witnesses to your Will.

8) Q - What does it mean to be of sound mind or competent to make a Will?

A – You must understand the nature of the transaction, ie, that you are giving your property to certain people after death and you must know the nature of your estate (your assets and liabilities)

9) Q – What is a Will?

A – A written binding legal statement of the disposition of your property

10) Q – What is a Power of Attorney?

A – A document that allows a trusted love one to care for your property and your interests in case of mental or physical incapacity. The difference between a Power of Attorney and a Will is that Power of Attorney is generally triggered by incapacity and a Will is triggered by death.

11) Q – If I'm in a common law situation and die without a Will , won't my spouse automatically take my Estate.

A – No, a common law relationships are not recognized by the Succession Law Reform Act. Unless your are legally married or have a Will, your common law spouse gets nothing.