

Don't Gamble with Your Endgame

Use this quiz to ensure you make the right legacy moves.

Words by Dorothy Hagel, LL.B./JD, CFP



Estate planning is about taking control of your legacy. It's a good idea that your will is prepared at the same time as other estate documents including your Power of Attorney for Property and Power of Attorney for Personal Care as well as funeral arrangements, to avoid inconsistencies.

It takes more than a discussion or handwritten note to ensure that the right message and directions are left behind and you don't unintentionally create chaos in your wake.

Wills are subject to a number of legal requirements, such as interpretation rules and formalities on execution; therefore, it's important that you consult a professional for advice in order to incorporate your specific financial and family needs. Remember to update your will when there is a significant change in your life, especially if your marital status changes or you have children.

Here's a quiz designed to provide answers to a number of key questions—see how you do!

1. **What is the main goal in preparing a will?**
 - a. Establishing a life insurance plan to provide for family
 - b. Making sure your assets go to the people of your choice
 - c. Protecting your physical property from the government

Answer: **B**

Without proper estate plan and executed will, your assets may be caught up in the legal system and may not go to the beneficiaries you intended.

2. **What is an *inter vivos* gift?**
 - a. A gift to the trustee
 - b. A gift that is set up while alive, but only given after death
 - c. A gift given while you are still alive

Answer: **C**

An *inter vivos* gift is a gift made while still alive. A testamentary gift is a gift made in the will that takes effect when the person dies. You can start distributing parts of your estate to your heirs while you are still alive, but you should be mindful of the potential impact of income tax when capital property is gifted.

3. **In addition to the distribution of your assets, what else can a will accomplish?**
 - a. Appointment of guardians for young children
 - b. Summary of life philosophy
 - c. Choice of healthcare proxy

Answer: **A**

Your will describes all of your final wishes about significant matters, including who should look after your children and their inheritance.

4. **Probate is the legal term for the administering of an estate or will and the evaluation of any claims to property. When is probate not needed in Ontario?**
 - a. When there is jointly owned real property or bank accounts
 - b. When a beneficiary is designated in insurance policies and RRSPs
 - c. When the estate has no assets

Answer: **C**

When the estate has no assets, there is nothing to probate. Probate is a complicated issue. You should seek counsel to determine which assets of the estate are subject to probate.

5. **If there is no will, who manages the distribution of assets?**
 - a. Public guardian and trustee (PGT)
 - b. Estate trustee without a will
 - c. Surviving spouse
 - d. Power of attorney (POA)

Answer: **B**

A person appointed as the estate trustee without a will manages the estate. The surviving spouse, a relative, family lawyer or a creditor can make an application for Certificate of Appointment of Estate Trustee without a Will. A PGT is a trustee of the last resort and will only get involved if there is nobody else. The POA's authority ends at death.

6. **If there is no will, who benefits from the estate?**
- The surviving spouse always inherits all the money
 - As determined by the Succession Law Reform Act
 - The Crown (the Province)
 - The bank

Answer: **B**

The Succession Law Reform Act governs the distribution of the assets of the estate. It does not always mean that the surviving spouse will inherit all the money. The Crown is the beneficiary of the last resort, if there is no close or remote family. The bank will claim the amounts owed to it against the estate but has no rights to inherit.

7. **Your will should be signed by:**
- Your lawyer
 - The testator (yourself)
 - A notary public
 - Two witnesses
 - A bank official

Answers: **B & D**

The will needs to be signed by you, the testator, in front of two witnesses who then sign the will in your presence and in front of each other. A lawyer, bank official or a notary public could sign as one of the witnesses. The will does not have to be notarized.

8. **Who is best qualified to be a witness for the execution of your will:**
- An individual who has known you for a long time but is not designated as a beneficiary in the will
 - The executor who is also a beneficiary
 - A child who is a beneficiary
 - A spouse of a beneficiary

Answer: **A**

The witness to a will may not be a beneficiary or married to a beneficiary, otherwise the gifts to that beneficiary are voided.

9. **What is a holographic will? A will that is:**
- Written by a lawyer
 - Recorded on a video tape
 - Executed before 1995
 - Handwritten by the testator

Answer: **D**

A will entirely handwritten, signed and dated by you (the testator).



10. **What happens with spousal and child support?**
- They terminate with the person's (testator's) death
 - They continue for six months after death
 - They could trigger a dependant claim against the estate
 - They continue but will be reduced by 50 percent

Answer: **C**

If a person has a legal obligation to support someone, the obligation carries onto the estate. If insufficient provisions are made in the will to fulfill these obligations, the person entitled to support may make a claim against the estate. All assets, joint accounts and RRSP accounts are taken into consideration.

Estate planning isn't all about the money, but in the end money can often be front and centre. You need to consider the impact of your decisions on your family, not only from financial and tax angles, but also from emotional perspectives.

Leave a legacy your family will be proud of!

Dorothy Hagel LL.B/JD, CFP is a lawyer whose practice focuses on all aspects of estate matters including estate planning, administration and litigation. Contact Dorothy at dhestatelaw.com or call 905-990-3440.

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