Gifting & Estate Planning Strategies

Protecting Your Family and Your Legacy

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The information presented today is for general educational purposes only and does not constitute legal advice. Estate planning is governed by Alberta and federal Canadian law, which may change over time. Please consult a qualified wills and estates lawyer and other professional advisors for advice tailored to your specific circumstances.

What We'll Cover Today

1. The building blocks of your estate plan: the Will, Power of Attorney, and Personal Directive
2. Your obligations to provide for family: who are your dependants and who can make a claim against your estate
3. Costly "quick fixes" in estate and tax planning
4. Helping children today without jeopardizing your estate
5. First-home help: protecting both generations
6. Beneficiary designations: friends or foes for estate planning?
7. Gifting decisions impact your will, taxes, and charitable legacy
8. Strategies for balancing generosity, protection, and peace of mind
9. Early conversations with estate professionals lead to better outcomes

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The Building Blocks of Your Estate Plan

PLANNING FOR DEATH

The Will

Your **foundational document** for asset distribution.

- Names your executor and guardians for minor children.
- Must meet Alberta's **formal requirements** to be valid.
- Without a Will, Alberta's **intestacy rules** apply, overriding your wishes.

PLANNING FOR INCAPACITY

Power of Attorney & Personal Directive

Enduring Power of Attorney: Appoints someone to manage your financial and legal affairs if you lose capacity.
Personal Directive: Appoints an agent to make personal and healthcare decisions on your behalf.

- These documents are only effective **during your lifetime**—they cease to have any effect on death
- Without them, your family may need **court approval** to act on your behalf (guardianship & trusteeship)
- Activation by medical declarations (although an EPA can be immediate)

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Your Obligations to Provide for Family

Who Are Your Dependants?

Under Alberta law, certain family members may have a legal right to support from your estate. This includes:

- A spouse or adult interdependent partner
- Minor children
- Adult children who are unable to earn a livelihood due to disability or other circumstances

This obligation exists regardless of what your Will says. Courts can vary a Will if adequate provision has not been made.

Who Can Make a Claim Against Your Estate?

- **Wills Challenges:** Legal actions taken if the Will is made in suspicious circumstances or capacity is in question (e.g., deathbed wills)
- **Family Maintenance and Support Claims:** Allows a Family Member (see above) to apply to court for adequate maintenance and support.
- **Creditors:** Always have priority claims before beneficiaries receive anything.

Understanding these obligations is crucial to the planning process.

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The Perils of "Quick Fixes" in Estate Planning

Adding a Child's Name to Property or Accounts

Can trigger immediate tax, expose the asset to the child's creditors or divorce, and spark disputes over whether it was a true gift.

DIY Wills and Informal Documents

Online templates and handwritten notes often fail Alberta's formal requirements, creating ambiguity, invalid gifts, and costly litigation.

Outdated or Missing Beneficiary Designations

Stale designations can send registered plans or insurance to an ex-spouse or your estate, quietly undoing your plan.

Assuming Joint Tenancy Solves Everything

Survivorship may not reflect your intentions; for adult children the law often presumes a resulting trust, inviting conflict.

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Guiding Generosity: Supporting Adult (Grand)Children Without Compromising Your Estate

There Are Tax Consequences to Gifting
Gifts of appreciated property other than cash are treated as a sale at fair market value, which can trigger capital gains tax in the year you give.

Are There Restrictions on Giving?
Canada has no gift tax, but attribution rules, loss of control, and creditor or matrimonial-property exposure can complicate large lifetime gifts.

Treating Children Equitably vs. Equally
Equal shares are not always fair. Advances, caregiving, and differing needs may call for an equitable plan, documented clearly to prevent disputes.

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First-Home Help: Structuring Support That Protects Both Generations

01
Outright Cash Gift with a Gift Letter

02
Family Loan with a Promissory Note

03
Co-Ownership: Tenants in Common or Joint Tenants

04
Consider a “hotchpot” clause in the Will for loans (not gifts)

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Beneficiary Designations: Friends or Foes?

- Foe: Designations Override Your Will
- Foe: Divorce Revokes Gifts to a Spouse — But Not Designations
- Foe: Naming Your Estate or a Minor Child Directly

Continued on next slide →

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Beneficiary Designations: Friends or Foes? (cont'd)

- Friend: Designating a Spouse for RRSP/RRIF Rollover
- Friend: Review After Every Major Life Event
- Friend: Coordinate with a Testamentary Trust

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The Ripple Effect: How Gifting Decisions Impact Your Will, Taxes, and Charitable Legacy

Impact on Your Will & Family Fairness

Lifetime gifts reduce what remains for other beneficiaries. Without an equalization or hotchpot clause, they can quietly create inequality.

Tax Consequences of Gifting

Deemed dispositions, attribution rules, and probate planning interact. An uncoordinated gift can increase the overall tax burden.

Maximizing Your Charitable Legacy

Timing and structure, lifetime versus testamentary and cash versus securities, determine how much tax relief your generosity generates.

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Why Charitable Giving?

100%

of net income can be offset by charitable donation tax credits in the year of death

- Leave a lasting legacy that reflects your values and supports causes you care about
- Significantly reduce the tax bill on your final return — more of your estate goes where you choose
- Lifetime limit is 75% of net income, but donations at death can offset up to 100%
- Unused credits can be carried back one year, providing even more flexibility

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Tax Rules: Lifetime vs. Estate

DURING YOUR LIFETIME	THROUGH YOUR ESTATE
• Tax credit offsets up to 75% of net income • Unused credits carry forward 5 years • Gifts of publicly traded securities — no capital gains tax • You see the impact of your giving during your lifetime	• Tax credit offsets up to 100% of net income in year of death • Unused credits carry back one year • Offsets deemed disposition taxes on RRSPs/RRIFs • Maximizes your legacy by reducing the CRA's share

Under the Income Tax Act (Canada), donation tax credits at death are among the most generous in the tax code.

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Methods of Giving

Direct Bequests

A specific dollar amount or percentage of your estate to a named charity in your will. Simple, common, and effective.

Beneficiary Designations

Name a charity as beneficiary of your RRSP, RRIF, or TFSA. Funds pass directly, outside the will and probate.

Donor-Advised Funds

Contribute to a fund at a community foundation. You get the tax credit now; recommend grants to charities over time.

Private Foundations

Create your own charitable foundation. Maximum control, but significant admin and an annual disbursement quota (3.5% on the first $1M of assets; 5% above).

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Ensuring Your Wishes Are Carried Out

1. **Use full legal names and charity registration numbers**
   Charities merge, rename, or dissolve. Be precise to avoid ambiguity.
2. **Include a "gift-over" clause**
   Direct what happens if a named charity no longer exists at the time of your death.
3. **Review beneficiary designations regularly**
   Changes in relationships, assets, or charities may require updates.
4. **Communicate with the charity and your family**
   It is important to involve the charity when deciding on your legacy gift. Moreover, explain your charitable goals so your family understands and supports your plan.
5. **Coordinate with your professional team**
   Your lawyer, accountant, and financial advisor should all be aligned.

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Planning Strategies for a Balanced Legacy

- Generosity
- Protection
- Peace of Mind

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Key Alberta Estate Planning Tools

Trusts

Testamentary and inter vivos trusts protect vulnerable beneficiaries, control the timing of distributions, and open tax-planning opportunities.

Powers of Attorney & Personal Directives

Appoint trusted people to manage your finances and make personal and health decisions if you lose capacity during your lifetime.

Life Insurance in Estate Planning

Provides tax-free liquidity to cover taxes, equalize gifts among heirs, or fund a buy-sell agreement without forcing asset sales.

Probate in Alberta

Court confirmation of your executor's authority. Understanding fees and timelines helps you structure assets to simplify administration.

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Secure Your Legacy: The Value of Early Professional Guidance

- The Cost of Waiting
- What an Early Conversation Looks Like
- Your Professional Team
- The Result: Control, Clarity, and Confidence

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Questions & Discussion

Thank you for joining us today. We appreciate your time and attention to these important aspects of estate planning.

We're here to help.

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