

Where there's a WILL there's a way

WILL

A will is one of the most important legal documents any person - regardless of wealth - can execute during a lifetime.

If you make a will, you can spell out exactly how and to whom you want your property to be distributed at your death.

If you make a will, you may also want to name a guardian or trustee or both for your children. This is specially important if the children are minors.

Since a will is used to distribute property it took a lifetime to accumulate, it makes sense to seek competent legal advice on writing it.

Legally a person can write his or her own will without a lawyer's assistance and it will be valid provided that it meets all the technical requirements. But a will is too important to be "do-it-yourself project." The few dollars you may save now can cost your family thousands later.

Once you sign a will, you can change it any time you want. However, each change must meet the requirements for a valid will as spelled out in the laws of various Provinces. It is a good idea to review your will periodically to make sure it is up to date, especially if there is a change in circumstances.

A key point to keep in mind is that the will "speaks as of the date of death." It becomes effective only upon death.

Benefits of having a will

There are definite advantages to be gained from writing your will. Among the more evident reasons are:

- To make sure that your belongings will go to those to whom you wish to give them, in the proportions that you choose to give them.
- To provide for your loved ones to the best of your ability.
- To influence the choice of any guardian for your minor children and to ease the task of that guardian.
- To make it easier for the persons inheriting your possessions to obtain and use what you leave.

- To save certain types of expenses

There are more subtle benefits to be gained as well:

- You can let all your interested relatives and friends know exact wishes, anticipating and thereby preventing fights, irritations, or confusion that might otherwise ensue.
- You can reveal aspects of your financial affairs that even you may not have fully realized. By actually sitting down and writing a will, you will discover any "loose ends" that need to be taken care of, or opportunities that the law encourages.

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Child Benefit Scheme Simply Far Too Complex

An amendment to the child benefit section of the Income Tax Act was passed in the Parliament in September 1992. This has raised concerns among many Canadians, since the system being so complex leaves all of us guessing enough that almost nobody - especially those who may be classified as "middle class", seems to be able to figure out how much they will receive.

Non-taxable payments

The non-taxable payments consist of a number of components:

- \$1,020 for each qualified dependent - basically for a child who is under 18 years of age.
- \$75 extra for each of the 3rd and subsequent dependents.

- \$213 for each dependent under age 7. This payment is reduced by 25% of child care expense claimed for all dependents.

- An annual income supplement of 8% (to a maximum of \$500) of the earned income of an individual and his or her spouse in excess of \$3,750. But this "Bonus" is reduced by 10% of joint income in excess of \$20,921.

Once you determine all the amounts noted above, the payments are reduced by 5% (or 2.5% where there is only one qualified dependent) of income in excess of \$25,921. All the figures will be then indexed in the future for the amount of inflation above 3%.

Dear Reader,

The purpose of this newsletter is to provide useful information.

A lot of thought and work has been contributed towards compiling of this newsletter.

There are two interesting articles in this issue, on Wills and recent changes in Family Allowance.

Child Benefit article was contributed by Sayed Hussain, Kaiserwar Accountants and Management Consultants, and edited by Seby Kottayil.

For further information on Family Allowance please contact Sayed on 361-0382.

Anyone wishing to contribute informative articles to this newsletter may contact me. I appreciate your support.

Yours sincerely,

Francis D'Costa

What could happen if you don't have a will

Suppose that you decide not to bother about a will, since you feel you don't have much money or property to be concerned about. Do your survivors just decide who gets what and then distribute it among themselves? Does everyone automatically receive what they deserve or need?

The answer is NO.

In effect, your Province has already made a "will" for you. If you die without a will - called "dying intestate" - the Province in which you live will step in and make the decisions for you, according to the letter of its laws. Unfortunately, you won't be around to argue with their decisions, which are arbitrary and may not necessarily conform to your own wishes or be in the best interests of your family and friends.

Here are some of the possible consequences of not having a will:

- A needy relative or friend may be partially or totally disinherited.
- An undeserving person may be rewarded with all your property.
- An estate could seriously be depleted by probate costs and federal income taxes.

Why many people fail to make a will

Many people believe their assets are so small that a will is entirely unnecessary.

Many people are convinced that when they die, their spouse (or parents or siblings or children) will automatically get all they own.

Most people associate the thought of making a will with the thought of death - subject which nobody likes to dwell on.

How to draw up a will

Strictly speaking, you don't draw up a will - a lawyer does it for you. It's an important distinction since home made wills often cause trouble. Handwritten or holographic wills frequently are imprecise in their language and may wind up in the courts, where they can be ruled invalid. Even a single vaguely worded clause may result in lengthy legal entanglements. Few people realise that anyone who might benefit if the will is invalidated can contest it, and if the court decides in his or her favour because of ambiguous wording, the deceased's estate may be required to pay legal costs.

Aside from crucial reasons for having the lawyer work with you in drawing up a will, there are other advantages. It might help save on income taxes and take advantage of opportunities people often overlook or are not aware of.

While there is no required format for a will, wills contain most or all of the following provisions:

1. Your name and address, and a statement that you are revoking any wills you may have previously made.
2. The name of an executor of your estate.
3. A statement directing the prompt payment of claims against your estate administration costs, burial expenses, debts and taxes.
4. A provision for distribution of your assets.
5. A provision regarding the custody of minor children.
6. Provision for some kind of trust fund arrangement for your spouse, children or other dependents.
7. Name of a trustee.
8. Provisions for gifts from your estate.
9. A "common disaster" or presumption of survivorship" clause.
10. Witnesses.

Your lawyer will decide which of the above apply to your situation.

Can a will be changed

Definitely. In fact, a will should be re-examined from time to time to make sure it's up to date.

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If Yes

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**Your contact for Business & Family Insurance Planning,
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How life insurance can help

Life insurance can help guarantee that assets you have built up, and hope to bequeath to your heirs, will not shrink appreciably or disappear completely.

The proceeds of life insurance policy besides replacing the lost income of a wage earner, can if properly used provide estate liquidity. In other words, they can be used to pay the estate's income taxes, unsettled debts, funeral costs, probate costs, administration costs, and other expenses that are incurred when a person dies. Without the money that life insurance provides, some if not all of the assets of your assets might have to be sold quickly for ready cash. Often the best assets are used in this forced sale, to get the best return. The result: estate shrinkage, or much less for your heirs.

The proceeds themselves can be free from probate costs, legal fees, and even succession duties. The proceeds are generally not subject to federal income taxes.

Complexity

Now, note there is another level of complexity. Payments that were mailed in January 1993 were based on tax returns for 1991, but this applies just for 6 months. Payments made in July 1993 will be based on 1992 information (where no returns has yet been filed, an affidavit detailing income will be required).

This means there may be significant adjustments upwards or downwards in July 1993. In cases where there was very low income in 1991, and a significant income in 1992, the system may eliminate post June payments, or even require re-payments.

Now, from one's practical point of view, a hardship may result. Given that there was so much job loss in the late 1991 & 1992, a lot of people will find that for the first 6 months, they will receive a pittance (perhaps less than they were getting from the family al-

lowance) and then they will get significantly larger payments in the second half of the year.

We are not complaining about the system from a technical point of view, since this is the best and seems to be the fairest this government could come up with; we are going to see a lot of anomalies and perhaps some hardships under this system, compared with the Old Family Allowance, where payments were final and regular.

What we Canadians don't like is a system that is so complex it defies explanation to most parents and is almost impossible to vet for accuracy. Like so many things under the tax system - ranging from the calculation of interest to R.R.S.P, the tax payer is once again put in a position of having to trust the government and its computers to "Get it Right".

We all know, blind reliance on governments to get things done right is dangerous. But in practical terms under the new system - there will be **NO CHOICE !!**
by Sayed Hussain, Kaiserwar Accountants

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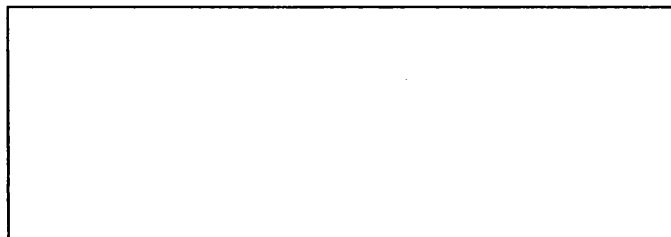
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From D'Costa's Files

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