



FAMILY WEALTH PLANNERS  
PERSONAL TAX ADVISORS  
[www.personalwealthstrategies.net](http://www.personalwealthstrategies.net)  
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## Will Review Checklist

Name \_\_\_\_\_ Date of will \_\_\_\_\_

Mailing Address \_\_\_\_\_

Email address \_\_\_\_\_ Telephone \_\_\_\_\_

### A. Executors – Powers and Responsibilities

#### Answer/Comments

- ☐ Does the will provide for alternate executors?
- ☐ Are executors authorized to act on the deceased's legal rights / obligations in certain contracts (stock options, shareholder agreements, etc.)?
- ☐ Can executors borrow money?
- ☐ Are executors allowed to make a spousal RRSP contribution after death?
- ☐ Does the will provide for the payment of taxes and last expenses of the deceased?
- ☐ Does the will allow the executors to engage a corporate trustee or other professionals to ease the administrative burden?
- ☐ Is the retention of estate assets by executors allowed?
- ☐ Could more than one will be used in order to reduce probate fees?

### B. Bequests and Beneficiaries

- ☐ Is there a gift over clause for heirs of non surviving beneficiaries?
- ☐ Are bequests for beneficiaries who are minors staged over time?
- ☐ Does will exclude beneficiaries born outside wedlock?
- ☐ Does the will contain a common disaster clause?
- ☐ Is there reference in the will to a memo on the allocation of assets of a personal nature to close family members?
- ☐ If RRSP beneficiaries not a spouse, does the will consider that related taxes will be payable by the estate?
- ☐ Does the will provide for alternate beneficiaries or allocation formulas if a beneficiary is deceased?  
At the time of the deceased's death.  
At the time bequest vests.

**C. Trusts**

- ☐ Are trusts established for beneficiaries under 18? \_\_\_\_\_
- ☐ Are other trusts established in the will? \_\_\_\_\_
- ☐ Is there a clause in the will allowing the trustees to prefer the interest of certain beneficiaries over other beneficiaries? \_\_\_\_\_

**D. Other Contracts and Liabilities**

- ☐ Are there inconsistencies between the will and other documents (insurance policies, RRSP's, etc.) as to the beneficiary? \_\_\_\_\_
- ☐ If the will contains reference to beneficiaries that are meant to override various policy declarations, is the will wording sufficiently detailed to be effective? \_\_\_\_\_
- ☐ Have insurance declarations been prepared? \_\_\_\_\_
- ☐ Does the will set aside assets to cover liabilities of the deceased that exist at the time of death? \_\_\_\_\_

**E. Income Taxes**

- ☐ Does the will allow executors to make any/all elections permitted by the Income Tax Act? \_\_\_\_\_
- ☐ Where property is left to trusts for spouse, can executors allocate property between a qualifying and non qualifying trust at their discretion? \_\_\_\_\_
- ☐ If the will attempts to establish a qualifying spousal trust, does the wording comply with the conditions of the Income Tax Act? \_\_\_\_\_

**F. Family Law**

- ☐ Is there a family law Act net family property exclusion clause for income and capital? \_\_\_\_\_
- ☐ Have the consequences been considered if the will does not comply with the equalization rules under family law? \_\_\_\_\_

## ***INTESTATE IN ONTARIO***

### ***Survived by a Spouse***

No children	Spouse receives 100%.
One child	Spouse receives first \$200,000. Greater than \$200,000 half the excess goes to spouse, half to child.
More than one child	Spouse receives first \$200,000 plus one-third of amount over \$200,000. Children share remaining two-thirds.

### ***No Spouse***

One child	Child receives 100%.
More than one child	Children share equally.
No children	Parents share equally.

### ***No Spouse, No Children***

No parents	Brothers and sister share equally. If no brothers or sisters are living, then all nieces and nephews share equally. If no distant family can be found, estate goes to the Ontario government.
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### ***Spouse***

Under income tax law, a spouse includes a common-law spouse. Spouse under the Ontario Succession Law Reform Act refers only to married spouses.

### ***Intestate***

Where a person dies without leaving a will, or the will is determined to be invalid, or ineffective, the person is said to have died “intestate”.

The Ontario Court (General Division) will determine whether a person died intestate, and if so, will appoint an administrator by granting a certificate of appointment of estate trustee without a will. This is conclusive evidence of the intestacy of the deceased and of the right of the administrator or estate trustee to deal with the property of the deceased. Generally, the courts look to the spouse, children, grandchildren, parents and brothers or sisters of the deceased to grant such certificate of appointment. However, the grant of is at the sole discretion of the Court and the Court may appoint a trust company where the next –of –kin of the deceased are unable or unwilling to accept the appointment.

The administrator or estate trustee, once appointed, is responsible for the collection, management, supervision and realization of the assets of the deceased, payment of the deceased’s debts and ultimately distributing assets to those persons entitled to inherit pursuant to the relevant provincial legislation.