

## WILL CHECK LIST



- 1. Full Legal Name of Person making the will, i.e. the Testator/Testatrix.
- 2. Full legal names of all beneficiaries and relationship. If one of the children predeceases to Testator is it the plan that the deceased child's share goes to his/her spouse, children etc.? or does that share go to the surviving sibling?
- 3. Full legal names of Executor and alternate in case first choice not available.
- 4. Trust for minors. If child beneficiary over 18, but you do not want her/him to receive trust funds who can be named to receive them, at what age, if either funds are not used for education or the child does not live to be that age? This is called a "gift over" and avoids child being able to demand funds from Trustee.
- 5. Trust for minors. Where child predeceases parent, but wish to have share of child held in trust for grandchildren.
- 6. Who is the Trustee for any trust established for a minor? Can be the Executor.
- 7. Any items, eg. jewellery etc. which you want left to specific individuals – list to be attached to will

### Other issues not referred to in will

Probate fees are \$5/\$1000 of the value of the estate up to \$50,000 and \$15/\$1000 of the value of estate in excess of \$50,000. Banks and other financial institutions generally want letters probate/administration, (simply court certified proof of a valid will) to transfer assets over \$40K. In order to avoid some of the probate fees you try to keep as few assets in the estate as is practical.

### Some ways to avoid probate fees:

- (a) Home or other real property can be held as joint tenants. Upon death of one it automatically goes to the other without going through the estate.
- (b) Insurance policies, other death benefits from pension plans etc. Can name specific beneficiary (eg. Husband/Wife, child etc. not "Estate of") which will keep proceeds from forming part of the estate.
- (c) Possible to hold all bank accounts and investments as joint tenants so that upon death they automatically go to survivor and do not form part of the estate. There is a spousal rollover of tax in Canada so capital gains are deferred until death of survivor. The surviving named joint owner(s) is the legal owner on death of one joint tenant.
- (d) RRSP's. If beneficiary is spouse, rollover on death. If beneficiary is other than spouse, that person receives the full amount, BUT estate pays all of the income tax as if the income was earning all in one year.