

WHY IT'S IMPORTANT TO UPDATE YOUR WILL UPON THE DEATH OF A SPOUSE

Your spouse or partner has just passed away. Coping with the loss of your loved one will be difficult. It is important that you allow yourself time to grieve.

As soon as you're able, it is also vitally important to make sure that you take the death of your spouse into account in your estate planning. Let's look at the various estate planning documents and some of the things that should be considered at this time.

Your will

If you named your spouse or partner as estate trustee (formally known as an "executor"), you must name another. You may have named an alternate in the event that your spouse or partner died. If so, you need to consider finding an alternate estate trustee or estate trustees, depending on whether or not your alternate is still willing to act on your behalf at all. Also, your will may not have been revised for a considerable period of time, and you may feel quite different about your initial choice of estate trustee.

It is normal to specify in your will what the distribution of your estate would be if your spouse or partner dies before you. In that case, you should carefully review the distribution that you have specified to ensure that it is still what you wish. You should also consider whether you might wish to make gifts now to children or other relatives or make a charitable donation. This would reduce the value of your estate for probate purposes. It would also provide your children or the charity with funds that they could enjoy now, rather than after your death.

If your will has not been updated for a number of years, there may be new legal provisions that should be included. Review your will with your lawyer to ensure that there is no ambiguity and that any changes in the law that may have an impact on your will have been considered.

Powers of attorney

A will only takes effect when you die. Powers of attorney for property and for personal care are documents in which you name someone to make decisions related to your assets and your health care during your lifetime, in the event that you are not able to make those decisions yourself. If you do not have powers of attorney, it's important to have them prepared. If you do have them, but have named your spouse as attorney, you must name someone else with an alternate should that person be unable or unwilling to act in that capacity in the future. Remember that you do not have to name the same persons as attorneys for property and for personal care. Some people have expertise in managing assets, while others will be more sensitive to your needs and wishes from a health perspective.

Beneficiary designations

You may have designated your spouse or partner as the beneficiary under your *Registered Retirement Savings Plans* or *Registered Retirement Income Funds*. If you do not have a designated beneficiary, the funds would be payable to your estate and would be distributed according to the provisions of your will. You should give consideration to designating named beneficiaries of your RRSPs and RRIFs. However, since you no longer have a spouse or partner as the beneficiary, the proceeds of these plans would normally become fully taxable on your final income tax return. Tax would be payable by your estate and not by the designated beneficiaries of the plans. You should obtain legal and accounting advice as to the option that best fulfills your needs and wishes.

If you have a pension plan or annuity, and there is a guarantee period, you may wish to designate a beneficiary rather than allowing the proceeds to fall into your estate and be distributed in accordance with the provisions of your will.

If you have any life insurance policies, you may wish to change the beneficiary

designation so that the funds no longer form part of your estate and pass to a named beneficiary or named beneficiaries on your death. However, if the funds are required for the payment of income taxes on death and for estate expenses, you may wish to allow the funds to form part of your estate so that they are available to your estate trustee on your death.