

# Will planning: protecting your assets and your family

Your will is the cornerstone of your estate plan. It is the legal tool by which you express your final wishes about the distribution of the assets you own personally when you die.

Consider the following when updating your current will or when preparing a new one:

## 1. Guardians

If you have minor children, then you should name in your will the individuals you want to take care of your children.

## 2. Your executor(s) and the estate administration process

Your executor<sup>1</sup> is the person you appoint in your will to administer your estate and ensure that your final wishes are carried out. You can appoint one or more executors in your will, as well as one or more contingent executors in case those you named first cannot or will not act.

Some of the duties of an executor include:

- gathering and protecting all the assets of your estate;
- applying to court to probate your will, if required;
- obtaining information about all your potential beneficiaries, heirs and other claimants to your estate;
- settling your debts, making funeral arrangements, and approving or disapproving the claims of your creditors;
- valuing your assets as of the date of your death and ensuring that all your tax liabilities are properly calculated, filed and paid; and
- distributing the assets of your estate according to the terms of your will.

As mentioned above, the choice of executor is very important. What follows are some key points to consider when selecting your executor.

**Impartiality:** If your executor is also a beneficiary of your estate or has a close relationship with one or more of the beneficiaries of your estate, consider whether this person could be impartial in administering your estate. The duties of your executor may conflict with the interests of some of your beneficiaries.

**Life expectancy:** Consider whether your executor is likely to outlive you or live long enough to administer any trusts created under your will.

**Knowledge and expertise:** Consider whether the nature and complexity of your estate, assets, business and other investments require an executor with specific skills or knowledge to effectively manage your assets and administer your estate and any trusts created by your will.

**Potential for personal legal liability:** Your executor is responsible for ensuring that financial obligations are paid from the estate before any assets go to beneficiaries. In certain circumstances, a court could hold your executor personally accountable for the losses or liabilities incurred by your estate. You should, therefore, consider whether your executor is capable of doing the job properly and seeking appropriate assistance. This could be especially important if your estate or assets are complex.

**Local residency and availability:** Consider whether the geographical location of your executor will limit their time or availability to properly administer your estate, manage the estate administration process efficiently, and set up any trusts created by your will and manage them until their end.

**Burden of administration:** Administering an estate can take executors anywhere from several months to several years to complete and would likely add to the stresses of their ongoing family and work responsibilities.

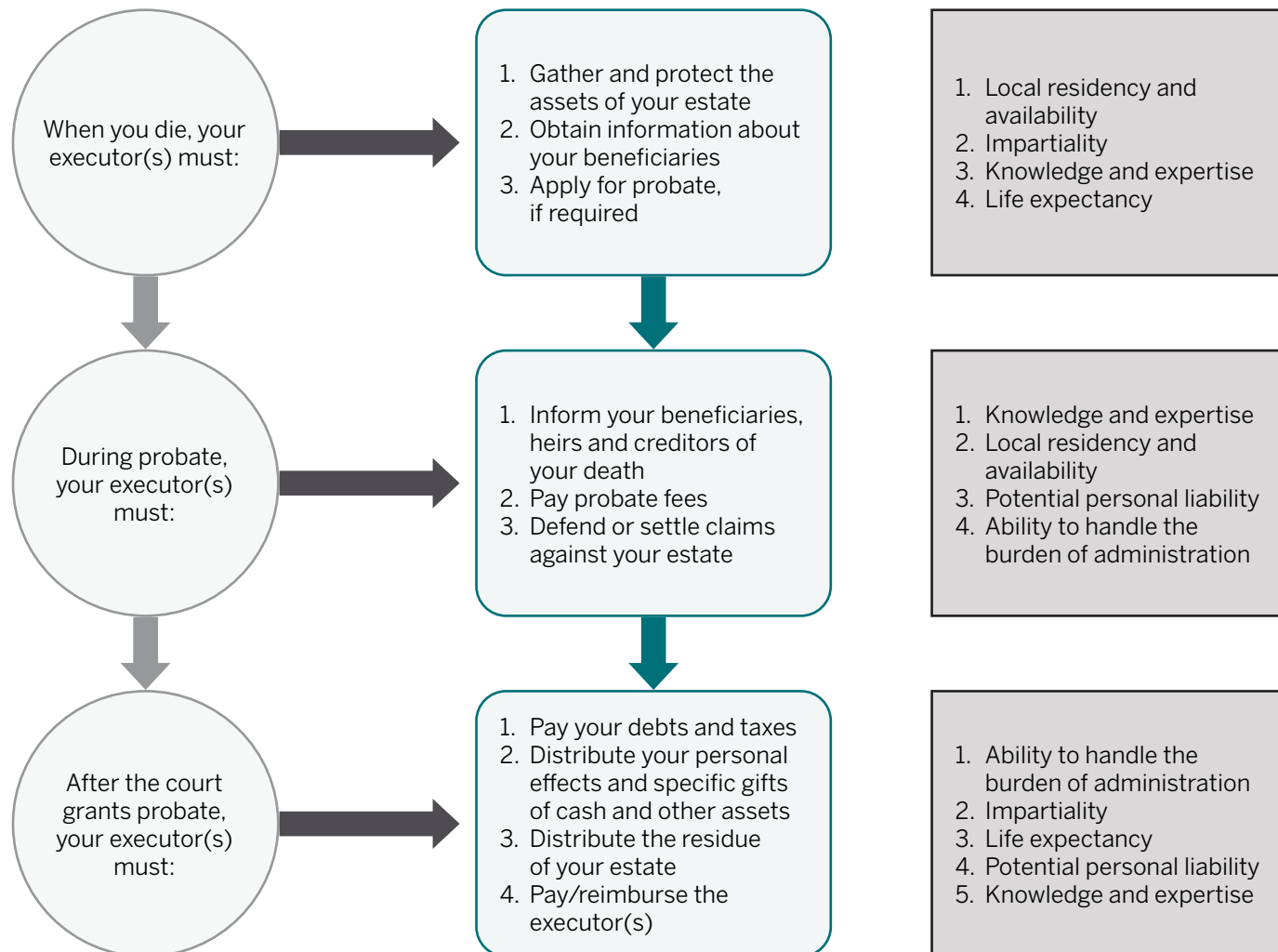
<sup>1</sup> The legal term for the person who administers a deceased's estate is a "personal representative", though such representatives are more commonly known as "executors". For simplicity, the term "executor" will be used throughout this document. However, please note that certain jurisdictions in Canada may use different terms for the person who fulfills this role, such as "estate trustee" in Ontario and "liquidator" in the province of Quebec.

This diagram summarizes the duties of an executor at various stages in the estate administration process and the qualities and skills an executor may need:

### Estate administration process

### Duties of executor

### Factors to consider in executor



### 3. Personal effects

Your personal effects include all items of personal, domestic and household use or ornament, jewellery, motor vehicles and watercraft, and any accessories to them. You may wish to consider how you want to distribute these often sentimental or valuable items.

### 4. Specific gifts

These are gifts of cash (or "cash legacies") or in-kind gifts of other specific assets, including personal effects. Consider whether you wish to make gifts of cash or specific assets to certain family members, friends or charities.

### 5. Residue of your estate

The residue of your estate is what is left over after your executors pay your debts and taxes and distribute your personal effects and any gifts of cash or specific assets under your will.

### 6. Testamentary trusts

Testamentary trusts can be effective devices to protect against potential family law or creditor claims against your loved ones. Set up after your death according to instructions in your will, testamentary trusts allow you to name one or more people you trust ("trustees") to manage the assets held in the trust for the benefit of one or more of your loved ones ("beneficiaries").

## 7. Ultimate beneficiaries

In case some unforeseen event makes it impossible for your executor(s) to satisfy a gift you have made in your will (e.g., all the beneficiaries you have named in your will die in a common disaster), consider which people or charities you would wish to benefit from your estate.

## 8. Consider the services of MD Private Trust Company

As you may know, MD Private Trust Company (MD Private Trust) is federally licensed in Canada to act as:

- an executor or co-executor of estates;
- a trustee or co-trustee of living trusts (trusts created by a person during that person's lifetime) and testamentary trusts (trusts created in a person's will that take effect upon that person's death); and
- an agent of executors and trustees.

When appointed, MD Private Trust carries out its duties and responsibilities with the utmost care, diligence and expertise. The fees associated with the services are an expense of the estate or trust.

Appointing MD Private Trust as the executor or co-executor of your estate, or as the trustee or co-trustee of any trust, relieves you and your loved ones of the burden of administering your estate or trust. This can be especially important at a time when your loved ones may be grieving. Appointing MD Private Trust ensures that your estate or trust will be managed by an executor or trustee who is impartial and who has the requisite knowledge and ability to professionally manage your affairs and deal with any inherent complexities.

**Ensure that you consult with your estate planning and tax experts in deciding the contents of your will within the context of your overall estate and financial plans.**

To learn more about will planning, contact an MD Signature Advisor\*.

\* MD Signature Advisor refers to advisors who are licensed to carry on activity as both an MD Management Limited Financial Consultant (or Investment Advisor in Quebec) and an MD Private Investment Counsel Portfolio Manager.

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Estate and trust services are offered through MD Private Trust Company (MD Private Trust).