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Top 5 reasons why you need a Will

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You have probably considered having your Will done in the past but thought that it was too early at this stage in your life, or your estate was not big enough to justify it. However, having a Will is important regardless of the size of your estate or whether you are 25 or 75.

Here are the top five reasons why you should have a Will in place:

1. Choose your executor

With a Will, you get to choose your executor or the person who will be responsible for administering your estate which will include dealing with your assets, paying your debts, and distributing gifts or inheritances to your beneficiaries according to your instructions. As this is a significant undertaking, many people consider it an advantage to be able to select an executor in advance.

If you die without a Will, the process for appointing someone to administer your estate comes down to who may be willing to do it. According to Manitoba legislation, the options are limited to those relatives who reside within the province. Being able to appoint your executor in your Will removes the guesswork for your family on who will be responsible for your estate following your death.

Another advantage in appointing an executor in your Will is that the executor will typically not be required to post a bond to the court. In contrast, if you were to pass away without a Will or an executor appointed in a Will, the person applying to administer your estate would be required to have assets worth as much as your estate is worth, or double, depending on the size of your estate.

2. Choose your beneficiaries and gifts

Along the same lines as choosing your executor, you can set out in your Will who your beneficiaries are and what they will receive from your estate. This can include gifts or distributions to family members, friends, or specified charities or organizations. Furthermore, your estate can be divided into shares as you prefer, whether in dollar amounts, percentages, or otherwise.

In contrast, where someone dies without a Will, the shares to be distributed and the beneficiaries themselves are set out by the legislation. The path that the legislation sets out

for beneficiaries is generally spouse or common-law partner first, then children, parents, siblings, nieces and nephews, or grandparents. In many cases, this path may not reflect who you wish to receive, or how much you wish those beneficiaries to receive. By having a Will in place, you can ensure that your estate goes to the people you want and in the amounts that you want.

3. Choose terms for minors

Your Will can also include terms for minor children or family members. First, where you have minor children yourself, you can designate individuals that you wish to be the guardian for your children in the event of your death. While it is important to keep in mind that the court has jurisdiction over minors and any guardianship appointment would need to be formalized through the court, the parent's wishes as stated in their Will regarding the potential guardian becomes an important consideration in the process.

Second, for minor beneficiaries, you can select the age at which they will receive their inheritance. While the age of majority is the default for receiving inheritances from estates (18 years old in Manitoba), many people choose to specify in their Will that minor beneficiaries will not receive their share until an older age based on personal considerations.

4. Court involvement may not be required

The fourth benefit to having a Will is that the administration of your estate may not require any court involvement. Requiring Probate of a Will generally comes down to the assets that comprise the estate and the value of those assets and in some cases, the circumstances may not require an application to court for Probate. In contrast, where someone dies without a Will, an application must be made to the court regardless of the purpose for appointing someone to administer the estate.

5. Review of estate by lawyer

Having a meeting with a lawyer to assist you is one of the benefits of writing a Will. This can be a good opportunity to review what your estate contains and how those specific assets may be dealt with on your death.

For example, in the case of land, your lawyer can review and advise you on the ways to own land and what that ownership structure means in the event of your passing. If you have life insurance or investments, your lawyer can discuss the meaning of beneficiary designations. Your lawyer can advise you on how to deal with your specific assets so that you can make informed decisions.

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