

Estate Planning for Women

Nadia runs a successful consulting business in downtown Calgary. It struggled a bit during the pandemic, but is rebounding nicely. Recently divorced, Nadia lives with her three school-aged children and is also a part-time caregiver to her ailing mother who lost her husband to cancer three years ago.

A typical day for Nadia is one of constant juggling between her duties as an entrepreneur, mother, and caregiver. And Nadia is not alone. According to [Statistics Canada](#)¹, one in four Canadians aged 15 years and older (7.8 million people) provide care for family members or friends, with women accounting for 54 percent of all Canadian caregivers. Caregivers who are part of the sandwich generation – who must simultaneously meet the needs of children and parents – often face greater challenges on the personal and financial front in attending to their obligations.

Nadia could really benefit from an estate plan. Women often believe that they need significant wealth to have an estate plan or simply don't need one, or put off this important task because they have an overflowing to-do list. However, taking the time to get it done – especially when facing unique challenges – can prove to be invaluable.

The information provided in this article is general in nature. It is recommended to seek professional legal advice to assist you with your estate planning and Will preparation, due to provincial estate legislative differences and ongoing changes.

Estate plan defined

Contrary to popular assumptions, estate planning is more than just creating a Will. It refers to a variety of tasks focused on managing an individual's assets in the event of incapacitation or death. An estate plan can include everything from a "living Will" (also known in Ontario as a Power of Attorney for Personal Care) that sets out intentions for one's healthcare upon mental or physical incapacity, to a "last Will and testament" that comes into effect after your death.

It spans the naming of an executor to carry out your wishes, appointing a guardian for minor children as well as probate and tax minimization strategies. There are various reasons for planning an estate, including preserving family wealth, providing for a surviving spouse, children, or parents, and creating a charitable legacy.

Benefits of estate planning for women

As Nadia's story demonstrates, women caregivers – who bear a much greater burden caring for their loved ones than their male counterparts – must be mindful of their dependants' needs. How would Nadia ensure her mother was cared for if she predeceased her? How can she be sure her wishes are communicated effectively in case of incapacity? Estate planning offers peace of mind by formalizing answers to those questions.

As an entrepreneur, Nadia faces other unique concerns, such as, who will run her business if she is no longer able to? If Nadia falls ill, loses her mental capacity, or even dies, does she have a plan in place for the succession of her business? Has she communicated how she would like her corporate assets to be preserved or invested?

Nadia also serves as a good example for why divorced or separated women, particularly those with children, are good candidates for estate plans. It's the best way to ensure dependents are taken care of as per the wishes of the deceased. Blended families involving children from previous and current marriages can get even more complicated, with additional hands in need of financial support.

Money matters can often impact family dynamics and relationships in blended families. Friction among siblings can be avoided or minimized if an estate plan is put in place and communicated to family members, preventing any surprises at death. Women often want to ensure that family harmony is maintained after their death which makes it important to have a well-thought-out estate plan.

How can a mother in a blended family make sure her children receive their share of her assets, as she intended? Estate planning enables money to be kept in a spousal trust, ensuring her partner receives the income, while the capital goes to her children upon her death. If she's concerned that her child will be irresponsible with their share of the inheritance, a testamentary trust could also guarantee that her assets are issued incrementally over time at the trustee's discretion.

Keep in mind that statistically, women also live longer than men which means they'll potentially incur greater long-term care expenses down the line. An estate plan can offer a sense of security, knowing that their future needs are taken care of. Women also tend to be more philanthropic by nature than men. An estate plan will allow them to create a legacy that specifically outlines the manner they would like to distribute their wealth after their passing, whether that be to their children or to their favourite charities.

Residents of Ontario should take note of [recent amendments to Ontario estate legislation](#). As of January 2022, a marriage can no longer invalidate a Will, a change with significant consequences. The new law also states that the former spouse of a separated couple (even if not yet legally divorced) no longer has any property rights. And the legitimacy of an improperly executed Will can no longer be contested if the document clearly states the deceased person's wishes. This more flexible interpretation of the law will make it easier for assets to be distributed according to one's true intentions. Of course, estate rules differ by province so it's recommended to check the legislation in the province where you live.

How women's estate planning needs have evolved

Women's wealth is on the rise. In fact, by 2026, [it's estimated](#) that Canadian women will hold more than half the personal wealth in Canada, a huge increase compared to the previous decade.

A 2015 BMO report, *Women in Wealth*, highlighted some of the significant strides women have made both professionally and personally over the last 50 years. Women, for example, are the primary breadwinners in over 31 percent of Canadian households, control about \$1.1 trillion in personal wealth which is expected to grow to \$2.7 trillion by 2024, and will inherit \$900 billion in financial and real assets over the next decade.

Let's not forget that entrepreneurship is stronger than ever among Canadian women, with over 360,000 self-employed today, representing a 30 percent increase in women-owned businesses in the last ten years. As of 2017, women were majority owners of approximately [15.6 percent of Small Medium Enterprises \("SMEs"\)](#), representing approximately 114,000 companies. In 2019, they accounted for over 37 percent of self-employed Canadians.

What's more, close to \$1 trillion in personal wealth is in the process of being transferred from one generation to the next in Canada, effectively shifting wealth demographics largely toward women. With many more women choosing to get married later in life, running their own businesses and earning higher incomes than ever before, their level of financial independence and accumulated wealth is at an all-time high. This evolving financial landscape should impact their financial decisions, with an estate plan playing a key role.

Estate planning documents

Estate planning takes considerable thought and preparation, however, with the right documents in place, you can feel confident that your needs and those of your loved ones are in good hands. The following is a list of the most important documents, and unique considerations to keep in mind for every estate plan.

1. Power of Attorney for Property and Personal Care

A formal legal document in which someone is appointed to represent you or make decisions on your behalf, should you no longer be able to express informed consent. Decisions include, financial, business, managing investments, healthcare, and medical treatment options.

2. Last Will and testament

A legal document and the cornerstone of an estate plan, a Will documents the details of your wishes, upon your death. It often includes details on the distribution of your assets, including property, money, and any personal items of value. You can also name an executor and guardian for any dependents.

3. Trusts

An individual creates a trust by entrusting their property to a trustee who is now obligated to hold the property for the benefit of one or more people in the individual's family. The terms of a trust are usually set out in writing in the document. There are different types of trusts that can be created during one's lifetime called an inter vivos trust, or upon death called a testamentary trust.

4. Shareholder's agreement

An arrangement among shareholders that describes how a company should be operated and outlines shareholders' rights and obligations. Shareholder's agreements are important in estate planning as they detail what will happen should a significant life event (e.g., death) or an important shareholder development (e.g., liquidation of shares) arises.

5. Schedule of assets

A document that details the value of your estate to ensure the distribution of your assets in accordance to your Will. It lists all your possessions (property, money, investments) as well as any debts. The document should also include named beneficiaries of any RRSPs, RRIFs, TFSA's and life insurance.

Time to update your estate plan?

You heeded the call to establish an estate plan years ago. Good for you, you're one step ahead of many. However, if your personal or professional life went through a significant change recently, it's time to take another look.

Julie is a 39-year-old teacher who recently got remarried in her hometown of Halifax. She had her lawyer draft an estate plan before her first marriage and doesn't see any reason to go back to the table. Her friend Sheryl is on a high after selling her business and feels similarly. Why revisit a certified document?

There are many situations that warrant revisiting your estate plan. For instance, if you're newly married, remarried, separated, divorced, or recently gave birth, purchased a business or property, or introduced your home to a blended family, you may benefit from updating your estate plan.

For example, Julie resides in the province of Nova Scotia and pursuant to their estate legislation, she may be unaware that her second marriage revoked her previous Will. Even if it had remained valid after her separation, Julie may want to

revisit the trust she established in her former husband's name, or address the matter of providing for her current husband's two kids if she predeceases him. Life gets tricky when blended families are brought into the mix. It would behoove Sheryl, meanwhile, to stipulate in her revised estate plan how she would like to distribute the windfall from the sale of her business. As a single woman with no living parents, she needs to be exceptionally clear in her documentation about how she wants her money to be distributed, should it fall intestate upon her death. Dying intestate, or without a Will, results in the provincial legislation dictating how your assets will be divided. This means that family members who you never intended to benefit from your estate could very well receive a portion of your hard-earned wealth.

Six myths about estate planning

There are some common misperceptions around estate planning. Let's look at – and debunk – the most popular myths out there.

1. An estate plan is only valuable to older people

Life is unpredictable. Without sounding grim, the reality is you can become incapacitated and/or pass away at any time. An estate plan simply provides a sense of security – should the unthinkable occur, you and your loved ones are taken care of. Regardless of your age, that sense of wellbeing is beneficial.

2. Men benefit most from estate plans

Let's be clear, everyone needs an estate plan. Women often face unique challenges that make an estate plan even more valuable to their needs. Whether divorced, remarried, a single parent or an entrepreneur, women are increasingly learning the importance of taking empowered steps toward financial health and security. An estate plan fits well within those goals.

3. I don't need an estate plan because I'm married without children

Your marital status doesn't preclude the benefits of an estate plan. If you die prematurely without establishing one, your assets may not end up where you want them to. They may end up in probate, which your grieving spouse will now have to deal with. Not only is it a long and expensive process, a third party will be appointed to decide what happens to your assets. This is not a scenario one wishes upon their loved ones.

4. My family will take care of things

Your family can take care of things if you detail your wishes for those things beforehand. If you don't designate someone to make decisions on your behalf in case of incapacity or death, things can get messy. Your family may not be clear about your intentions. With a plan in place, you can feel confident that your wishes regarding your healthcare and assets are followed. You can feel good knowing that you prevented unnecessary family disagreements over those decisions.

5. I need a lot of wealth to have an estate plan

Estate planning may sound like something reserved only for the wealthy, but that's not the case. Whether you have a lot of money or very little, there is value in determining where it goes in case something happens. You've worked hard for your assets, why not protect them? Similarly, you don't need to be wealthy to appoint someone to take care of your medical care decisions (via a living Will).

Without having a plan in place, your loved ones can incur significant expenses settling your affairs. Even if you aren't wealthy today, estate planning is about planning for the future – when you may have more assets to worry about.

6. It's expensive to put an estate plan in place

While the cost of traditional estate planning is not cheap, the alternative can prove even pricier. Without a plan in place today, your friends, spouse and family may end up incurring significant expenses in legal and probate fees tomorrow. Moreover, there are a growing number of estate planning documents which can make your estate planning efforts much more affordable.

Women are taking significant steps forward in the workplace and in business. Their financial health is at an all-time high. But they also face unique challenges and are often expected to care for their ailing parents, while tending to their children and their business. That's why there's never been a better time for women to make smart and proactive decisions about their future. An estate plan is at the heart of those decisions.

Seek advice

Women find themselves in a different situation today than they did 50 years ago, at a time when it was assumed that women couldn't and shouldn't be in charge of financial decisions. Today, estate planning is as critical as financial planning for women. Documenting those wishes in an estate plan with a qualified legal professional is critical, no matter who you are and what you own. That's why it's important that you don't put off this important exercise until it's too late.

At BMO Private Wealth, we understand women's particular needs and concerns and we're available to help you realize your financial goals, safeguard your assets, and protect the ones you love.

For more information, please speak with your BMO financial professional.



¹ <https://www150.statcan.gc.ca/n1/daily-quotidien/220114/dq220114c-eng.htm>

BMO Private Wealth provides this publication for informational purposes only and it is not and should not be construed as professional advice to any individual. The information contained in this publication is based on material believed to be reliable at the time of publication, but BMO Private Wealth cannot guarantee the information is accurate or complete. Individuals should contact their BMO representative for professional advice regarding their personal circumstances and/or financial position. The comments included in this publication are not intended to be a definitive analysis of tax applicability or trust and estates law. The comments are general in nature and professional advice regarding an individual's particular tax position should be obtained in respect of any person's specific circumstances.

BMO Private Wealth is a brand name for a business group consisting of Bank of Montreal and certain of its affiliates in providing private wealth management products and services. Not all products and services are offered by all legal entities within BMO Private Wealth. Banking services are offered through Bank of Montreal. Investment management, wealth planning, tax planning, and philanthropy planning services are offered through BMO Nesbitt Burns Inc. and BMO Private Investment Counsel Inc. If you are already a client of BMO Nesbitt Burns Inc., please contact your Investment Advisor for more information. Estate, trust, and custodial services are offered through BMO Trust Company. BMO Private Wealth legal entities do not offer tax advice. BMO Trust Company and BMO Bank of Montreal are Members of CDIC.

® Registered trademark of Bank of Montreal, used under license.

All rights are reserved. No part of this publication may be reproduced in any form, or referred to in any other publication, without the express written permission of BMO Private Wealth.