

Estate Planning 101

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If you are like most of us, thinking about getting older is not your favourite topic. It is a good idea to be proactive however, and having plans in place can bring you peace of mind, save tax dollars, and make things easier for your family. Consider putting an estate plan in place, or updating your existing one. Here's an overview that will help you get started.

There are three basic building blocks to a well-planned estate:

- The **Will** appoints a personal representative (formerly called an executor) to divide your *property* upon your death.
- The **Enduring Power of Attorney (EPA)** appoints an individual to manage your *property* when you are incapable.
- The **Personal Directive (PD)** appoints an agent to make decisions about your *person* when you are incapable.

Let's take a look at how you can use these three tools to plan the management of your affairs as you age and after you pass away.

Your Will

A Will appoints a personal representative(s) to manage your estate and outlines how to divide your property among your beneficiaries after you die. From a practical standpoint, a Will can help reduce the tax burden on your estate and allows you to control how your assets are dealt with on your death. Without a Will, government legislation is applied to the division of your assets. A Will also offers you peace of mind and makes it easier on your family as decisions are already made.

When you select your Personal Representative, you should not only consider your trust in that person, but also his or her age (think about how old they will be when the Will comes into play) and his or her knowledge of you and your family. Your Personal Representative must be an Alberta resident who is over the age of 18. Alternatively, you can choose to appoint a trust company to administer your Will.

Enduring Power of Attorney

An Enduring Power of Attorney (EPA) is different from a Will in that it comes into effect while you are still alive. It appoints a person to make legal and financial decisions on your behalf if you become incapacitated. Without an EPA in place, the *Adult Guardianship and Trusteeship Act* applies and your family would need a Court Order for Trusteeship, which can be both stressful and costly.

An EPA may be Immediate or Springing. A Springing Power of Attorney comes into effect only if

you become incapable of making reasonable judgments. An Immediate Power of Attorney is effective when you sign the document and continues if you were to become incapable of managing your own affairs in the future.

Personal Directive

In a Personal Directive, you appoint an agent to make non-financial decisions on your behalf. These are most often related to health care, and might include directions on the kind of medical treatment you might wish to have – or not have - if you were in a coma, for example.

Supplemental to a PD is the Supported Decision-Making Authorization, which can be put in place for elderly, infirm or brain injured people who have some capacity for decision making, but require support.

Hopefully, this introduction gives you the information you need to start thinking about planning your estate. We recommend that you obtain legal advice when preparing these documents, particularly a Will, to ensure that they are valid and will be accepted by the courts. If you have any questions, please do not hesitate to contact our office and speak to one of our [wills and estates lawyers](#).

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