

TABLE OF CONTENTS

Part I Introduction

1 — Introduction to Wealth Planning

1.1	What is Wealth Planning?.....	3
1.2	The Wealth Planning Process.....	4
1.2.1	Financial Planning.....	4
1.2.2	Tax Planning.....	5
1.2.3	Family Law Issues.....	5
1.2.4	Disability Planning.....	6
1.2.5	Estate Planning.....	7
1.2.6	Insurance Planning	8
1.3	How to Use This Book	8
1.3.1	Life Scenarios.....	8
1.3.2	Reference Chapters.....	9
1.3.3	Jurisdiction Differences.....	9
1.3.4	Case Studies.....	10
1.4	The Need for Professional Advice.....	10

Part II Life Scenarios

2 — Single

2.1	Financial Planning.....	16
2.1.1	Emergency Fund.....	16
2.1.2	Retirement Plan.....	16
2.2	Tax Planning.....	17
2.3	Family Law Issues.....	18
2.4	Disability Planning.....	18
2.4.1	Powers of Attorney	18
2.4.2	Disability Insurance	19
2.4.3	Critical Illness Insurance.....	19
2.4.4	Long-Term Care Insurance	20
2.5	Estate Planning.....	20
2.5.1	No Dependents.....	20
2.5.1.1	Will Planning	20
2.5.1.2	Beneficiary Designations.....	21
2.5.1.3	Donation of Body Tissue/Funeral Arrangements	22
2.5.2	Dependants	23
2.5.2.1	Guardianship	23

2.5.2.2	Beneficiary Designations.....	23
2.5.2.3	Pets.....	24
2.6	Insurance Planning	25
2.6.1	No Dependents.....	25
2.6.2	Dependants	25
2.7	Jurisdiction Differences.....	26
2.8	Case Studies.....	26
2.8.1	Single, No Children.....	26
2.8.2	Single, With Children.....	28
3 — Common-Law Couples		
3.1	“Common-Law” Status.....	34
3.1.1	When Are You Living Common-Law?	34
3.1.2	Trying to Avoid Common-Law Status	35
3.1.3	Moving to Another Jurisdiction	36
3.1.4	Property in Other Jurisdictions	36
3.2	Financial Planning.....	37
3.3	Tax Planning.....	37
3.4	Family Law Issues.....	41
3.4.1	Spousal Support.....	41
3.4.2	Division of Family Property	42
3.4.2.1	Family Property Remedies for Common-Law Couples.....	42
3.4.2.2	Pensions.....	43
3.4.2.3	Where Treated Like a Married Couple.....	44
3.4.2.4	Jointly Held Assets.....	45
3.4.2.5	Business Owners.....	46
3.4.2.6	Cohabitation Agreements.....	46
3.4.3	Child Support	47
3.5	Disability Planning.....	48
3.6	Estate Planning.....	49
3.6.1	Pension Survivor Benefits.....	49
3.6.2	Right to Inherit	50
3.6.3	Appointing Personal Representatives.....	50
3.6.4	Preventing Challenges from Other Family Members.....	50
3.6.5	Implications of Marriage at a Later Date	51
3.6.6	Defendant’s Relief Applications.....	51
3.6.7	RRSP and RRIF Beneficiary Designations	51
3.6.8	Other Issues	52
3.7	Insurance Planning	52
3.8	Status Indians	53
3.9	Jurisdiction Differences.....	54
3.9.1	Alberta	54
3.9.1.1	General Definition	54
3.9.1.2	Support Rights.....	54
3.9.1.3	Family Property Rights	54
3.9.1.4	Family Home	55
3.9.1.5	Rights at the Time of Death	55
3.9.1.6	Effect on Previous Wills	55

Table of Contents

3.9.2	British Columbia	56
3.9.2.1	General Definition	56
3.9.2.2	Support Rights.....	56
3.9.2.3	Family Property Rights	56
3.9.2.4	Family Home	56
3.9.2.5	Rights at the Time of Death	56
3.9.2.6	Effect on Previous Wills	57
3.9.3	Manitoba	57
3.9.3.1	General Definition	57
3.9.3.2	Support Rights.....	57
3.9.3.3	Family Property Rights	57
3.9.3.4	Family Home	58
3.9.3.5	Rights at the Time of Death	58
3.9.3.6	Effect on Previous Wills	59
3.9.4	New Brunswick.....	59
3.9.4.1	General Definition	59
3.9.4.2	Support Rights.....	59
3.9.4.3	Family Property Rights	59
3.9.4.4	Family Home	59
3.9.4.5	Rights at the Time of Death	60
3.9.4.6	Effect on Previous Wills	60
3.9.5	Newfoundland	60
3.9.5.1	General Definition	60
3.9.5.2	Support Rights.....	60
3.9.5.3	Family Property Rights	60
3.9.5.4	Family Home	61
3.9.5.5	Rights at the Time of Death	61
3.9.5.6	Effect on Previous Wills	61
3.9.6	Northwest Territories	61
3.9.6.1	General Definition	61
3.9.6.2	Support Rights.....	61
3.9.6.3	Family Property Rights	61
3.9.6.4	Family Home	62
3.9.6.5	Rights at the Time of Death	62
3.9.6.6	Effect on Previous Wills	62
3.9.7	Nova Scotia	62
3.9.7.1	General Definition	62
3.9.7.2	Support Rights.....	63
3.9.7.3	Family Property Rights	63
3.9.7.4	Family Home	63
3.9.7.5	Rights at the Time of Death	63
3.9.7.6	Effect on Previous Wills	64
3.9.8	Nunavut	64
3.9.9	Ontario	64
3.9.9.1	General Definition	64
3.9.9.2	Support Rights.....	65
3.9.9.3	Family Property Rights	65
3.9.9.4	Family Home	65

3.9.9.5	Rights at the Time of Death	65
3.9.9.6	Effect on Previous Wills	66
3.9.10	Prince Edward Island	66
3.9.10.1	General Definition	66
3.9.10.2	Support Rights.....	66
3.9.10.3	Family Property Rights	66
3.9.10.4	Family Home	66
3.9.10.5	Rights at the Time of Death	66
3.9.10.6	Effect on Previous Wills	67
3.9.11	Quebec.....	67
3.9.11.1	General Definition	67
3.9.11.2	Support Rights.....	67
3.9.11.3	Family Property Rights	67
3.9.11.4	Family Home	68
3.9.11.5	Rights at the Time of Death	68
3.9.11.6	Effect on Previous Wills	68
3.9.12	Saskatchewan	69
3.9.12.1	General Definition	69
3.9.12.2	Support Rights.....	69
3.9.12.3	Family Property Rights	69
3.9.12.4	Family Home	69
3.9.12.5	Rights at the Time of Death	70
3.9.12.6	Effect on Previous Wills	70
3.9.13	Yukon	70
3.9.13.1	General Definition	70
3.9.13.2	Support Rights.....	70
3.9.13.3	Family Property Rights	71
3.9.13.4	Family Home	71
3.9.13.5	Rights at the Time of Death	71
3.9.13.6	Effect on Previous Wills	71
3.10	Case Studies.....	72
3.10.1	Living Common-Law, Jurisdiction Generally Does Not Recognize Status.....	72
3.10.2	Living Common-Law, Jurisdiction Generally Recognizes Status	73

4 — Engaged

4.1	Financial Planning.....	77
4.2	Tax Planning.....	78
4.3	Family Law Issues.....	79
4.3.1	Family Property Rules.....	79
4.3.2	Gifts from Family Members.....	81
4.4	Disability Planning.....	82
4.5	Estate Planning.....	82
4.6	Insurance Planning	84
4.7	Jurisdiction Differences.....	84
4.8	Case Studies.....	84
4.8.1	Engaged, One Spouse Owns a Home	84
4.8.2	Engaged, One Spouse Owns a Business.....	86

Table of Contents

5 — Married		
5.1	Financial Planning.....	91
5.1.1	Credit Cards	91
5.1.2	Pension Plans	91
5.1.3	Emergency Funds	92
5.2	Tax Planning.....	92
5.2.1	Income Splitting	92
5.2.1.1	Pension Income Splitting	93
5.2.1.2	Spousal RRSPs	93
5.2.1.3	Lower-income Spouse Does the Saving; Higher-income Spouse Does the Spending.....	94
5.2.1.4	Tax-Free Savings Accounts	94
5.2.1.5	Prescribed Rate Loans	95
5.2.1.6	Paying a Salary to a Spouse	96
5.2.1.7	Issuing Shares of a Corporation to a Spouse	96
5.2.2	Maximizing the Charitable Donation Credit	97
5.2.3	Maximizing the Medical Expense Credit.....	98
5.2.4	Transferring Unused Tax Credits	98
5.2.5	Transferring Unused Capital Losses.....	98
5.2.6	Maximizing the Spousal Tax Credit	100
5.3	Family Law Issues.....	100
5.3.1	Important Family Property Laws.....	101
5.3.1.1	Assets Acquired Prior to the Time of Marriage	101
5.3.1.2	Businesses	102
5.3.1.3	Inheritances and Gifts.....	102
5.3.1.4	Right to Possession of Family Home	102
5.3.1.5	Not All Debt Is Shareable	102
5.3.2	Domestic Contracts	103
5.4	Disability Planning.....	103
5.4.1	Powers of Attorney.....	104
5.4.2	Disability Insurance	104
5.4.3	Critical Illness Insurance.....	105
5.4.4	Long-Term Care Insurance	105
5.5	Estate Planning.....	105
5.5.1	Why You Need a Will	105
5.5.1.1	Children	106
5.5.1.2	Common Disaster Clauses.....	107
5.5.1.3	Tax Elections	107
5.5.2	Spouse Trusts.....	107
5.5.3	Leaving Assets to Beneficiaries Other Than a Spouse	109
5.5.4	Pension Survivor Benefits.....	110
5.5.5	Direct Beneficiary Designations.....	111
5.5.6	Funeral Arrangements	112
5.5.7	Separation and Divorce	112
5.6	Insurance Planning	112
5.6.1	Disability, Critical Illness and Long-Term Care Insurance	112
5.6.2	Life Insurance.....	112

5.6.2.1	To Create an Estate	113
5.6.2.2	To Preserve an Estate.....	113
5.6.2.3	To Equalize an Estate	113
5.7	Jurisdiction Differences.....	114
5.7.1	Alberta	114
5.7.2	British Columbia	114
5.7.3	Manitoba	114
5.7.4	New Brunswick.....	114
5.7.5	Newfoundland	115
5.7.6	Northwest Territories	115
5.7.7	Nova Scotia	115
5.7.8	Nunavut	115
5.7.9	Ontario	115
5.7.10	Prince Edward Island	115
5.7.11	Quebec.....	115
5.7.12	Saskatchewan	116
5.7.13	Yukon	116
5.8	Case Studies.....	116
5.8.1	Married, With Children, No Will	116
5.8.2	Prescribed Rate Loan	117
6 — Separated		
6.1	Financial Planning.....	121
6.2	Tax Planning.....	122
6.2.1	Transfer Assets Tax Effectively	123
6.2.1.1	Account for Tax Liabilities	123
6.2.1.2	Consider Triggering Capital Gains.....	123
6.2.1.3	Consider Triggering Capital Losses	124
6.2.1.4	Beware of the Attribution Rules.....	124
6.2.1.5	Obtain an Indemnity for Unpaid Taxes	125
6.2.2	Principal Residence Exemption	125
6.2.3	Spousal Tax Credit.....	126
6.2.4	Wholly Dependent Person Credit.....	126
6.2.5	RPPs, RRSPs and RRIFs	127
6.2.6	Support Payments	128
6.2.6.1	Spousal Support.....	128
6.2.6.2	Child Support	129
6.2.7	Deductibility of Legal Fees	129
6.2.8	Child Care Expenses	130
6.3	Family Law Issues.....	130
6.3.1	Division of Property	131
6.3.2	Spousal Support.....	132
6.3.2.1	Right to Receive Support.....	132
6.3.2.2	Tax Deductibility.....	133
6.3.2.3	Liability of an Estate	133
6.3.3	Child Support	133
6.3.4	Pensions.....	135
6.3.5	Separation Agreements	136

Table of Contents

6.4	Disability Planning.....	138
6.5	Estate Planning.....	139
6.5.1	Rewrite Your Will	139
6.5.2	Consider Severing Jointly Held Property.....	140
6.5.3	Consider Life Insurance to Fund Support Obligations.....	140
6.5.4	Review Your Beneficiary Designations	141
6.5.5	Divorce	143
6.5.6	Dependants' Relief Claims	143
6.6	Insurance Planning	143
6.6.1	Obtain Insurance to Fund Support Obligations	143
6.6.2	Review Your Medical and Dental Insurance.....	144
6.6.3	Review Your Disability, Critical Illness and Long-Term Care Insurance	144
6.6.4	Review Your Life Insurance Coverage.....	144
6.7	Jurisdiction Differences.....	145
6.7.1	Alberta	145
6.7.1.1	Common-Law Couples	145
6.7.1.2	Married Couples	145
6.7.2	British Columbia	146
6.7.2.1	Common-Law Couples	146
6.7.2.2	Married Couples	147
6.7.3	Manitoba	148
6.7.3.1	Common-Law Couples	148
6.7.3.2	Married Couples	150
6.7.4	New Brunswick.....	151
6.7.4.1	Common-Law Couples	151
6.7.4.2	Married Couples	151
6.7.5	Newfoundland	152
6.7.5.1	Common-Law Couples	152
6.7.5.2	Married Couples	153
6.7.6	Northwest Territories	153
6.7.6.1	Common-Law Couples	153
6.7.6.2	Married Couples	154
6.7.7	Nova Scotia	155
6.7.7.1	Common-Law Couples	155
6.7.7.2	Married Couples	156
6.7.8	Nunavut	157
6.7.9	Ontario	157
6.7.9.1	Common-Law Couples	157
6.7.9.2	Married Couples	158
6.7.10	Prince Edward Island	158
6.7.10.1	Common-Law Couples	158
6.7.10.2	Married Couples	159
6.7.11	Quebec.....	160
6.7.11.1	De Facto and Civil Union Couples.....	160
6.7.11.2	Married Couples	161
6.7.12	Saskatchewan	161
6.7.12.1	Common-Law Couples	161

6.7.12.2	Married Couples	162
6.7.13	Yukon	163
6.7.13.1	Common-Law Couples	163
6.7.13.2	Married Couples	163
6.8	Case Studies.....	164
6.8.1	Separated, Living Common-Law, No Children.....	164
6.8.1.1	Jurisdiction Differences for this Case Study	166
6.8.2	Separated, Married, No Children	167
6.8.3	Separated, Living Common-Law, With Children	168
6.8.3.1	Jurisdiction Differences for this Case Study	170
6.8.4	Separated, Married, With Children	170
7 — Divorced		
7.1	Financial Planning.....	172
7.2	Tax Planning.....	172
7.3	Family Law Issues.....	172
7.4	Disability Planning.....	172
7.5	Estate Planning.....	173
7.5.1	Review Your Will.....	173
7.5.2	Review Your Beneficiary Designations	174
7.6	Insurance Planning	174
7.7	Jurisdiction Differences.....	174
7.7.1	Alberta	174
7.7.2	British Columbia	175
7.7.3	Manitoba	175
7.7.4	New Brunswick.....	175
7.7.5	Newfoundland	176
7.7.6	Northwest Territories	176
7.7.7	Nova Scotia	176
7.7.8	Nunavut	177
7.7.9	Ontario	177
7.7.10	Prince Edward Island	177
7.7.11	Quebec.....	177
7.7.12	Saskatchewan	178
7.7.13	Yukon	178
7.8	Case Studies.....	178
8 — Blended Families		
8.1	Financial Planning.....	182
8.1.1	Creating a Combined Financial Plan	182
8.1.2	Retirement Planning.....	183
8.2	Tax Planning.....	184
8.3	Family Law Issues.....	184
8.4	Disability Planning.....	185
8.5	Estate Planning.....	185
8.5.1	Potential Estate Planning Problems.....	185
8.5.1.1	Potential Problems if Assets Left to Spouse.....	185
8.5.1.2	Potential Problems if Assets Left to Children	187

Table of Contents

8.5.1.2.1	Family Property and Dependant's Relief Claims.....	187
8.5.1.2.2	Failure to Write a New Will After Remarriage	188
8.5.1.2.3	Rights of Spouse on Intestacy.....	188
8.5.1.2.4	Triggering Capital Gains Tax.....	189
8.5.2	Estate Planning Strategies.....	189
8.5.2.1	Spouse or Common-Law Partner Trusts	189
8.5.2.2	Dividing Assets Between Spouse and Children	191
8.5.2.3	Using Insurance to Fund Obligations.....	193
8.5.2.4	Registered Investments.....	195
8.5.2.4.1	Placing Registered Investments in a Spouse Trust.....	195
8.5.2.4.2	Designating Direct Beneficiaries on a Registered Investment	196
8.5.2.5	Alter Ego or Joint Partner Trusts.....	197
8.5.3	Personal Effects	197
8.5.4	Common Disasters	198
8.5.5	Personal Representatives	198
8.5.6	Guardianship	198
8.5.7	Funerals	199
8.6	Insurance Planning	199
8.7	Jurisdiction Differences.....	199
8.8	Case Study	199
8.8.1	Blended Family, Living Common-Law, No Will	199
9 — Widowed		
9.1	Financial Planning.....	208
9.1.1	CPP Benefits.....	208
9.1.2	Investing Your Inheritance	209
9.2	Tax Planning.....	209
9.3	Family Law Issues.....	210
9.4	Disability Planning.....	210
9.5	Estate Planning.....	211
9.5.1	Will Planning	211
9.5.2	Minor Children	211
9.5.3	Adult Children	211
9.5.4	Beneficiary Designations.....	212
9.6	Insurance Planning	214
9.7	Jurisdiction Differences.....	214
9.8	Case Studies	215
9.8.1	Widowed, With Minor Children	215
9.8.2	Widowed, With Adult Children	216
10 — Children		
10.1	Financial Planning.....	220
10.1.1	CPP Benefits.....	220
10.1.2	Registered Education Savings Plans	221
10.1.3	Placing Assets in Trust for a Child	225

10.1.3.1	Informal Trusts	225
10.1.3.2	Formal Trusts	227
10.1.4	Lending Assets to a Child	230
10.1.5	Making a Gift to a Child	232
10.1.5.1	Tax Issues	232
10.1.5.2	Control Issues.....	233
10.1.5.3	Maintaining Family Harmony.....	233
10.1.5.4	Protecting a Gift from a Family Property Claim.....	234
10.2	Tax Planning.....	235
10.2.1	Child Care Expenses	235
10.2.2	File a Tax Return	237
10.2.3	Encourage Your Child to File a Tax Return.....	237
10.2.4	Tax-Free Savings Accounts	238
10.2.5	Starting an RRSP for Your Child	239
10.2.6	Income Splitting with Your Children.....	240
10.2.7	Tuition Tax Credit.....	241
10.2.8	Moving Expenses.....	242
10.2.9	Scholarships.....	242
10.2.10	Interest Payments on Student Loans	242
10.2.11	Wholly Dependent Person Credit.....	243
10.2.12	Tax Credit for Adoption Expenses	243
10.3	Family Law Issues.....	243
10.4	Disability Planning.....	244
10.5	Estate Planning.....	245
10.5.1	Guardianship	245
10.5.2	Rights of Children in the Case of Intestacy	247
10.5.3	Dividing an Estate Between Children.....	248
10.5.4	Leaving Money to Minors	250
10.5.5	Using Trusts for Adult Children	252
10.5.6	Protecting Assets Given to Children from Family Property Claims	254
10.5.7	Personal Representatives	255
10.5.8	Ensuring Your Child Receives an Inheritance	256
10.5.9	Disowning a Child	258
10.5.10	CPP Orphan Benefits.....	260
10.5.11	Estate Planning for Pets.....	260
10.6	Insurance Planning	261
10.6.1	Reviewing Your Insurance Needs	261
10.6.2	Designating a Child as a Direct Beneficiary	262
10.6.3	Insurance Trusts	263
10.6.4	Insurance for Children	263
10.6.5	Using Insurance to Shelter Income.....	264
10.7	Jurisdiction Differences.....	264
10.8	Case Studies.....	265
10.8.1	Married, With Minor Children	265
10.8.2	Married, With Adult Children	266
10.8.3	Establishing a Formal Trust for a Child	267
10.8.4	Leaving a Vacation Property to a Child.....	269

Table of Contents

11 — Grandchildren

11.1	Financial Planning.....	273
11.1.1	Giving or Lending Money to a Grandchild	273
11.1.2	Registered Education Savings Plans	274
11.2	Tax Planning.....	277
11.3	Family Law Issues.....	277
11.4	Disability Planning.....	277
11.5	Estate Planning.....	277
11.5.1	Review Your Estate Plan	277
11.5.2	Leaving Money to Grandchildren in a Will	278
11.6	Insurance Planning	281
11.7	Jurisdiction Differences.....	281
11.8	Case Studies.....	281
11.8.1	Leaving Money to a Grandchild in a Will.....	281

12 — Persons with a Disability

12.1	Financial Planning.....	285
12.1.1	Social Assistance Payments.....	285
12.1.2	CPP Disability Benefits	285
12.1.3	Registered Disability Savings Plans.....	286
12.1.4	R.ESPs for Students with a Disability	288
12.1.5	Study Grants for Students with a Disability.....	288
12.1.6	Lifelong Learning Plan	289
12.1.7	Home Buyer's Plan	289
12.1.8	Family Caregiver Benefit	289
12.2	Tax Planning.....	290
12.2.1	Disability Tax Credit	290
12.2.1.1	Disability Tax Credit Certificate.....	290
12.2.1.2	Basic Activities of Daily Living	290
12.2.1.3	Qualified Practitioners	291
12.2.1.4	Ask for a Review if Your Claim is Denied.....	292
12.2.1.5	Transfer Unused Credits to a Supporting Person.....	292
12.2.1.6	Attendant Care Costs	292
12.2.1.7	Additional Amount for Children.....	292
12.2.2	Wholly Dependent Person Credit.....	293
12.2.3	Canada Caregiver Credit	293
12.2.4	Medical Expense Credit.....	295
12.2.4.1	Claiming the Medical Expense Credit	295
12.2.4.2	What Qualifies as a Medical Expense.....	295
12.2.4.3	Home Construction and Renovations.....	297
12.2.4.4	Travel and Meal Expenses.....	298
12.2.4.5	Disability Tax Credit	298
12.2.4.6	Tuition Fees	298
12.2.5	Refundable Medical Expense Supplement	299
12.2.6	Disability Supports Deduction	299
12.2.7	Child Care Expense Deduction.....	301
12.2.8	Child Disability Benefit.....	301

12.2.9	File a Tax Return	301
12.2.10	File a T1 Adjustment	302
12.2.11	Home Accessibility Tax Credit	302
12.3	Estate Planning	302
12.3.1	Henson Trusts	303
12.3.2	Qualified Disability Trusts	306
12.3.3	Designating a Child with a Disability as a Direct Beneficiary on an RRSP ..	308
12.4	Insurance Planning	310
12.5	Jurisdiction Differences	310
12.5.1	Alberta	310
12.5.2	British Columbia	311
12.5.3	Manitoba	312
12.5.4	New Brunswick	313
12.5.5	Newfoundland	314
12.5.6	Northwest Territories	315
12.5.7	Nova Scotia	315
12.5.8	Nunavut	316
12.5.9	Ontario	317
12.5.10	Prince Edward Island	318
12.5.11	Quebec	320
12.5.11.1	Quebec Pension Plan	320
12.5.11.2	Social Assistance	320
12.5.11.3	Medical Expenses	320
12.5.12	Saskatchewan	321
12.5.13	Yukon	322
12.6	Case Study	323
12.6.1	Child with a Disability, Henson Trust	323
13 — Elderly Parents		
13.1	Financial Planning	328
13.2	Tax Planning	328
13.2.1	Wholly Dependent Person Credit	328
13.2.2	Canada Caregiver Credit	329
13.2.3	Disability Tax Credit	329
13.2.4	Nursing Care Costs	329
13.2.5	Home Accessibility Tax Credit	329
13.3	Family Law Issues	330
13.4	Disability Planning	330
13.4.1	Powers of Attorney	330
13.4.2	Health Care Directives and Living Wills	331
13.4.3	Long-Term Care Insurance	331
13.4.4	Critical Illness Insurance	332
13.5	Estate Planning	332
13.5.1	Tax Effective Inheritances	333
13.5.2	Protecting Inheritances from Family Property Claims	334
13.5.3	Funeral Arrangements	335
13.5.4	Dependants' Relief Claims by a Parent	336
13.5.5	Compensation for Providing Personal Care to a Parent	336

Table of Contents

13.6	Insurance Planning	337
13.7	Jurisdiction Differences.....	338
13.7.1	Alberta	338
13.7.2	British Columbia	338
13.7.3	Manitoba	338
13.7.4	New Brunswick.....	338
13.7.5	Newfoundland	339
13.7.6	Northwest Territories	339
13.7.7	Nova Scotia	339
13.7.8	Nunavut	339
13.7.9	Ontario	339
13.7.10	Prince Edward Island	340
13.7.11	Quebec.....	340
13.7.12	Saskatchewan.....	340
13.7.13	Yukon.....	340
13.8	Case Study	340
13.8.1	Elderly Parents with Adult Children	340
14 — Seniors and Retirees		
14.1	Financial Planning.....	344
14.1.1	CPP Benefits.....	344
14.1.1.1	When to Start Receiving CPP	344
14.1.1.2	Child-Rearing Dropout Provision.....	346
14.1.2	Old Age Security and Guaranteed Income Supplement	346
14.1.3	Nursing Care Costs.....	347
14.1.4	Pharmaceutical Expenses	348
14.1.5	Locked-In Retirement Plans.....	348
14.1.6	Charitable Gifts	349
14.2	Tax Planning.....	349
14.2.1	Reducing Your Net Income.....	349
14.2.1.1	Tax-Free Savings Accounts	350
14.2.1.2	T-Class Mutual Funds	351
14.2.1.3	Income Splitting	352
14.2.1.3.1	Splitting CPP Benefits.....	352
14.2.1.3.2	Pension Income Splitting	353
14.2.1.3.3	Other Forms of Income Splitting	354
14.2.1.4	Invest in Capital Gains Producing Assets	356
14.2.1.5	Minimize Dividend Income	356
14.2.1.6	Minimize Withdrawals from Registered Assets	357
14.2.1.7	Maximize Tax Deductions	358
14.2.1.8	Annuities and GMWBs	360
14.2.1.9	Permanent Life Insurance	361
14.2.1.10	Holding Corporations	361
14.2.1.11	Timing Receipt of Income.....	362
14.2.1.12	Transferring Assets to a Trust	363
14.2.2	Pension Income Credit	363
14.2.3	Medical Expense Credit.....	363
14.2.4	Disability Tax Credit	364

14.2.5	Home Accessibility Tax Credit	364
14.3	Disability Planning.....	364
14.4	Estate Planning.....	365
14.5	Insurance Planning	365
14.5.1	Medical Insurance.....	365
14.5.2	Life Insurance for Tax Liabilities	365
14.5.3	Long-Term Care Insurance	366
14.5.4	Critical Illness Insurance.....	366
14.6	Jurisdiction Differences.....	367
14.6.1	Alberta	367
14.6.2	British Columbia	367
14.6.3	Manitoba	367
14.6.4	New Brunswick.....	367
14.6.5	Newfoundland	368
14.6.6	Northwest Territories	368
14.6.7	Nova Scotia	368
14.6.8	Nunavut	368
14.6.9	Ontario	368
14.6.10	Prince Edward Island	369
14.6.11	Quebec.....	369
14.6.12	Saskatchewan	369
14.6.13	Yukon	369
15 — Vacation Properties		
15.1	Tax Planning.....	372
15.1.1	Proceeds of Disposition	373
15.1.2	Cost.....	374
15.1.3	Principal Residence Exemption	375
15.1.4	Transferring the Property to a Family Member	378
15.2	Estate Planning.....	381
15.2.1	Capital Gains Tax	381
15.2.2	Choosing a Beneficiary.....	382
15.2.3	Joint Ownership	383
15.2.4	Owning Property in Foreign Jurisdictions	387
15.3	Jurisdiction Differences.....	387
15.4	Case Studies.....	387
15.4.1	Transfer of Property to a Child	387
15.4.2	Calculation of the Principal Residence Exemption	389
15.4.3	Equalizing an Estate for Children	390
16 — Business Owners		
16.1	Financial Planning.....	392
16.1.1	Payment of Salary vs. Dividends	392
16.1.2	Creditor Protection	394
16.1.3	Retirement Savings and IPPs.....	397
16.1.4	Retirement Compensation Arrangements.....	398
16.1.5	Cash Damming	399
16.2	Tax Planning.....	399

Table of Contents

16.2.1	Incorporation	400
16.2.2	Income Splitting with Family Members	401
16.2.3	Lifetime Capital Gains Exemption	405
16.2.4	The Small Business Deduction and Passive Income.....	407
16.2.5	Charitable Contributions	409
16.3	Family Law Issues.....	410
16.4	Disability Planning.....	411
16.4.1	Powers of Attorney	412
16.4.2	Disability Insurance	413
16.4.3	Partnership or Shareholders'Agreements.....	413
16.5	Estate Planning.....	414
16.5.1	Personal Planning.....	414
16.5.1.1	Will Planning	414
16.5.1.2	Choosing a Personal Representative	415
16.5.1.3	Probate Planning.....	416
16.5.1.4	\$10,000 Tax-Free Death Benefit	417
16.5.2	Business Succession Planning	417
16.5.2.1	Transfer or Sale of the Business	417
16.5.2.2	Estate Freezes	418
16.5.2.3	Shareholders'and Partnership Agreements.....	436
16.6	Insurance Planning	438
16.6.1	Amount of Insurance Required	438
16.6.2	Structuring the Insurance Policy	439
16.7	Jurisdiction Differences.....	442
16.8	Case Study	442
16.8.1	Estate Freeze	442

Part III
Reference Chapters

17 — Family Property

17.1	Dividing Family Property	454
17.1.1	Which Assets Are Shareable upon Separation or Divorce?	456
17.1.2	Family Home	456
17.1.3	Canada Pension Plan	457
17.1.4	Limitation Periods.....	458
17.1.5	Claims Against an Estate	458
17.1.6	Unequal Division of Assets	458
17.1.7	Indian Reserve Lands	458
17.2	Strategies for Preserving Family Assets	459
17.2.1	Assets Acquired Prior to the Time of the Relationship or Marriage	459
17.2.2	Gifts, Inheritances and Loans from Family Members	460
17.2.3	Business Assets	462
17.2.4	Jointly Held Assets.....	463
17.2.5	Domestic Contracts	463
17.3	Spousal and Child Support	466
17.4	Jurisdiction Differences.....	468

17.4.1	Alberta	468
17.4.1.1	Assets that Are Shareable and/or Exempt	468
17.4.1.2	Common-Law Couples	469
17.4.2	British Columbia	469
17.4.2.1	Assets that Are Shareable and/or Exempt	469
17.4.2.2	Common-Law Couples	470
17.4.3	Manitoba	470
17.4.3.1	Assets that Are Shareable and/or Exempt	470
17.4.3.2	Common-Law Couples	472
17.4.4	New Brunswick.....	473
17.4.4.1	Assets that Are Shareable and/or Exempt	473
17.4.4.2	Common-Law Couples	474
17.4.5	Newfoundland	474
17.4.5.1	Assets that Are Shareable and/or Exempt	474
17.4.5.2	Common-Law Couples	475
17.4.6	Northwest Territories	475
17.4.6.1	Assets that Are Shareable and/or Exempt	475
17.4.6.2	Common-Law Couples	476
17.4.7	Nova Scotia	476
17.4.7.1	Assets that Are Shareable and/or Exempt	476
17.4.7.2	Common-Law Couples	477
17.4.8	Nunavut	477
17.4.9	Ontario	477
17.4.9.1	Assets that Are Shareable and/or Exempt	477
17.4.9.2	Common-Law Couples	479
17.4.10	Prince Edward Island	479
17.4.10.1	Assets that Are Shareable and/or Exempt	479
17.4.10.2	Common-Law Couples	480
17.4.11	Quebec.....	481
17.4.11.1	Assets that Are Shareable and/or Exempt	481
17.4.11.2	De Facto and Civil Union Spouses	482
17.4.12	Saskatchewan	483
17.4.12.1	Assets that Are Shareable and/or Exempt	483
17.4.12.2	Common-Law Couples	484
17.4.13	Yukon	485
17.4.13.1	Assets that Are Shareable and/or Exempt	485
17.4.13.2	Common-Law Couples	485
17.5	Case Studies.....	485
18 — Powers of Attorney		
18.1	Powers of Attorney for Finances.....	489
18.1.1	Why Do I Need a Power of Attorney for Finances?	489
18.1.2	Factors to Consider When Appointing an Attorney	491
18.1.3	What Type of Document Do I Need?	493
18.1.3.1	Standardized Forms	493
18.1.3.2	Enduring Powers of Attorney.....	494
18.1.3.3	Springing Powers of Attorney	494
18.1.3.4	Health Care Decisions	495

Table of Contents

18.1.4	Are There Any Limits on What an Attorney Can Do?.....	495
18.1.5	Impact of Marriage, Separation and Divorce.....	496
18.1.6	What If I Have Property in More than One Jurisdiction?	496
18.1.7	Status Indians	497
18.2	Powers of Attorney for Health Care	497
18.3	Alternatives to a Power of Attorney.....	499
18.4	Jurisdiction Differences.....	499
18.4.1	Alberta	499
18.4.1.1	Finances.....	499
18.4.1.2	Health Care Decisions	499
18.4.2	British Columbia	499
18.4.2.1	Finances.....	499
18.4.2.2	Health Care Decisions	500
18.4.3	Manitoba	500
18.4.3.1	Finances.....	500
18.4.3.2	Health Care Decisions	501
18.4.4	New Brunswick.....	501
18.4.4.1	Finances.....	501
18.4.4.2	Health Care Decisions	502
18.4.5	Newfoundland	502
18.4.5.1	Finances.....	502
18.4.5.2	Health Care Decisions	502
18.4.6	Northwest Territories	502
18.4.6.1	Finances.....	502
18.4.6.2	Health Care Decisions	502
18.4.7	Nova Scotia	503
18.4.7.1	Finances.....	503
18.4.7.2	Health Care Decisions	503
18.4.8	Nunavut	503
18.4.8.1	Finances.....	503
18.4.8.2	Health Care Decisions	503
18.4.9	Ontario	503
18.4.9.1	Finances.....	503
18.4.9.2	Health Care Decisions	504
18.4.10	Prince Edward Island	504
18.4.10.1	Finances.....	504
18.4.10.2	Health Care Decisions	504
18.4.11	Quebec.....	505
18.4.11.1	Finances.....	505
18.4.11.2	Health Care Decisions	505
18.4.12	Saskatchewan	505
18.4.12.1	Finances.....	505
18.4.12.2	Health Care Decisions	506
18.4.13	Yukon	506
18.4.13.1	Finances.....	506
18.4.13.2	Health Care Decisions	506

19 — Estates

19.1	What is the Purpose of a Will?	510
19.1.1	Control the Distribution of Your Estate	510
19.1.2	Choose a Guardian to Care for Your Children	512
19.1.3	Choose Your Personal Representative	512
19.1.4	Give Personal Representatives Necessary Powers	512
19.1.5	Protect Inheritances from Family Property Claims.....	513
19.1.6	Tax Planning Strategies.....	514
19.2	Things to Keep in Mind When Writing a Will.....	514
19.2.1	Use a Professional.....	514
19.2.2	Limitations on Testamentary Freedom	515
19.2.2.1	Family Property Legislation.....	516
19.2.2.2	Defendants' Relief and Wills Variation Legislation	516
19.2.2.3	Pensions.....	516
19.2.2.4	Gifts Contrary to Public Policy	517
19.2.3	Personal Effects	517
19.2.4	Specific Gifts.....	518
19.2.5	Foreign Property.....	520
19.2.6	Common Disasters	520
19.2.7	Legal Terms	521
19.3	Property That Passes Outside of Your Estate	521
19.4	What Happens if I Die Without a Will?	522
19.4.1	Different Rules in Different Jurisdictions.....	523
19.4.2	Rules May Change in the Future	523
19.4.3	Property May Be Subject to More than One Set of Rules.....	523
19.4.4	Property May Pass Directly to Children	523
19.4.5	Intestacy Does Not Consider Personal Circumstances	524
19.5	Status Indians	525
19.6	Jurisdiction Differences.....	526
19.6.1	Alberta	526
19.6.1.1	Dying Without a Will.....	526
19.6.1.2	Common Disasters	527
19.6.1.3	Family Property.....	527
19.6.1.4	Defendant's Relief Applications.....	528
19.6.2	British Columbia	528
19.6.2.1	Dying Without a Will.....	528
19.6.2.2	Common Disasters	529
19.6.2.3	Family Property.....	529
19.6.2.4	Defendant's Relief Applications.....	529
19.6.3	Manitoba	530
19.6.3.1	Dying Without a Will.....	530
19.6.3.2	Common Disasters	531
19.6.3.3	Family Property.....	532
19.6.3.4	Defendant's Relief Applications.....	534
19.6.4	New Brunswick.....	536
19.6.4.1	Dying Without a Will.....	536
19.6.4.2	Common Disasters	536

Table of Contents

19.6.4.3	Family Property.....	537
19.6.4.4	Defendant's Relief Applications.....	537
19.6.5	Newfoundland	538
19.6.5.1	Dying Without a Will.....	538
19.6.5.2	Common Disasters	538
19.6.5.3	Family Property.....	538
19.6.5.4	Defendant's Relief Applications.....	539
19.6.6	Northwest Territories	539
19.6.6.1	Dying Without a Will.....	539
19.6.6.2	Common Disasters	540
19.6.6.3	Family Property.....	540
19.6.6.4	Defendant's Relief Applications.....	541
19.6.7	Nova Scotia	542
19.6.7.1	Dying Without a Will.....	542
19.6.7.2	Common Disasters	543
19.6.7.3	Family Property.....	543
19.6.7.4	Defendant's Relief Applications.....	543
19.6.8	Nunavut	544
19.6.9	Ontario	544
19.6.9.1	Dying Without a Will.....	544
19.6.9.2	Common Disasters	545
19.6.9.3	Family Property.....	545
19.6.9.4	Defendant's Relief Applications.....	546
19.6.10	Prince Edward Island	547
19.6.10.1	Dying Without a Will.....	547
19.6.10.2	Common Disasters	548
19.6.10.3	Family Property.....	548
19.6.10.4	Defendant's Relief Applications.....	549
19.6.11	Quebec.....	550
19.6.11.1	Dying Without a Will.....	550
19.6.11.2	Common Disasters	551
19.6.11.3	Family Property.....	551
19.6.11.4	Defendant's Relief Applications.....	551
19.6.12	Saskatchewan	551
19.6.12.1	Dying Without a Will.....	551
19.6.12.2	Common Disasters	552
19.6.12.3	Family Property.....	553
19.6.12.4	Defendant's Relief Applications.....	553
19.6.13	Yukon.....	554
19.6.13.1	Dying Without a Will.....	554
19.6.13.2	Common Disasters	555
19.6.13.3	Family Property.....	555
19.6.13.4	Defendant's Relief Applications.....	555
20 — Personal Representatives		
20.1	Choosing a Personal Representative	558
20.2	The Importance of Canadian Residency.....	560
20.3	Conflicts of Interest	561

20.4	Family Dynamics	562
20.5	What Happens in the Case of Separation or Divorce?.....	563
20.6	What Happens if no Personal Representative is Appointed?.....	563
20.7	Fees	564
20.8	How You Can Make Their Job Easier	565
20.9	Jurisdiction Differences.....	566

21 — Taxation at Death

21.1	Calculating Income Tax at the Time of Death	568
21.2	How to Minimize Tax Payable at the Time of Death.....	571
21.2.1	Spousal Rollover.....	571
21.2.2	Graduated Rate Estates	573
21.2.3	Tax Deferrals for RRSPs and RRIFs.....	574
21.2.4	Principal Residence Exemption	578
21.2.5	Using Capital Losses	581
21.2.6	Carryback of Losses Incurred by the Estate.....	582
21.2.7	Lifetime Capital Gains Exemption	582
21.2.8	Rollover of Farming or Fishing Property to a Child or Grandchild	583
21.2.9	Filing Separate Tax Returns	583
21.2.10	\$10,000 Tax-Free Death Benefit	584
21.2.11	Charitable Contributions	584
21.2.12	Holding Companies.....	585
21.2.13	Spousal RRSP Contributions	585
21.3	Tax Planning Strategies Prior to the Time of Death	585
21.3.1	Charitable Giving	585
21.3.2	\$10,000 Tax-Free Death Benefit	586
21.3.3	Estate Freezes	586
21.3.4	Testamentary Trusts.....	586
21.3.5	Joint Ownership	586
21.4	Planning for the Tax.....	587
21.5	Jurisdiction Differences.....	588
21.6	Case Studies.....	588
21.6.1	Taxation at Death — Individual	588
21.6.2	Taxation at Death — Married Person	589
21.6.3	Principal Residence Exemption	591

22 — Probate

22.1	The Probate Process	594
22.2	Probate Fees.....	596
22.3	Probate Planning.....	596
22.3.1	Adding a Joint Owner	599
22.3.1.1	Triggering Capital Gains Tax	600
22.3.1.2	Loss of Control.....	601
22.3.1.3	Unintentional Unequal Treatment of Beneficiaries.....	602
22.3.1.4	Exposure to Family Law Claims.....	603
22.3.1.5	Tax Liability for Estate.....	603
22.3.1.6	Lost Opportunities to Use a Trust	605
22.3.1.7	Disinheriting Children if Part of a Blended Family	606

Table of Contents

22.3.1.8	Family Property Implications	606
22.3.1.9	Creditor Exposure.....	607
22.3.1.10	Joint Ownership with a Resident of Quebec.....	607
22.3.2	Gifting Property	608
22.3.3	Selling an Asset for Less than Fair Market Value.....	609
22.3.4	Selling an Asset for More than Fair Market Value.....	610
22.3.5	Transferring Assets into a Trust.....	611
22.3.5.1	Alter Ego Trusts	612
22.3.5.2	Joint Partner Trusts	613
22.3.6	Designating a Direct Beneficiary	614
22.3.7	Insurance Trusts	618
22.3.8	Reducing the Net Value of an Estate.....	619
22.3.9	Multiple Wills	620
22.3.10	Proper Will Drafting	621
22.3.11	Permanent Life Insurance	621
22.4	Jurisdiction Differences.....	621
22.4.1	Alberta	621
22.4.2	British Columbia	622
22.4.3	Manitoba	622
22.4.4	New Brunswick.....	622
22.4.5	Newfoundland	623
22.4.6	Northwest Territories	623
22.4.7	Nova Scotia	623
22.4.8	Nunavut	624
22.4.9	Ontario	624
22.4.10	Prince Edward Island	624
22.4.11	Quebec.....	625
22.4.12	Saskatchewan	625
22.4.13	Yukon	625
22.5	Case Studies.....	625
22.5.1	Adding a Joint Owner	625
22.5.2	Gifting a Property	625
22.5.3	Selling a Property for Less Than Fair Market Value	625
22.5.4	Selling a Property for More Than Fair Market Value	626
22.5.5	Designating a Direct Beneficiary	626
23 — Trusts		
23.1	What is a Trust?.....	628
23.2	Taxation of a Trust	629
23.2.1	Taxation of Trust Income	629
23.2.2	Attribution of Trust Income.....	630
23.2.3	Deemed Dispositions of Capital	631
23.2.4	Filing Requirements	632
23.3	Informal Trusts	632
23.4	Structuring a Trust.....	633
23.4.1	Trustees	633
23.4.2	Trustee Powers	635
23.4.3	Beneficiaries	635

23.4.4	Settlor	636
23.5	Wealth Planning Using Trusts.....	637
23.5.1	<i>Inter Vivos</i> Trusts	637
23.5.2	Testamentary Trusts.....	637
23.5.3	Insurance Trusts	638
23.5.4	Henson Trusts.....	638
23.5.5	Qualified Disability Trusts	638
23.5.6	Spouse Trusts.....	639
23.5.7	Family Trusts.....	639
23.5.8	Age 40 Trusts	639
23.5.9	<i>Alter Ego</i> and Joint Partner Trusts.....	640
23.5.10	Charitable Remainder Trusts	640
23.6	Jurisdiction Differences.....	641
23.6.1	Alberta	641
23.6.2	British Columbia	642
23.6.3	Manitoba	642
23.6.4	New Brunswick.....	642
23.6.5	Newfoundland	642
23.6.6	Northwest Territories	643
23.6.7	Nova Scotia	643
23.6.8	Nunavut	644
23.6.9	Ontario	644
23.6.10	Prince Edward Island	645
23.6.11	Quebec.....	646
23.6.12	Saskatchewan	646
23.6.13	Yukon	647
23.7	Case Studies.....	647
24 — Charitable Giving		
24.1	Income Tax Implications.....	650
24.1.1	Charitable Donation Tax Credit	650
24.1.2	Gift Could Trigger Capital Gains.....	651
24.1.3	Impact on Old Age Security.....	651
24.2	Planned Giving Strategies.....	651
24.2.1	Maximizing Amounts Eligible for Higher Tax Credit Rates	652
24.2.2	Use the Donation in the Optimal Tax Year	652
24.2.3	Donating Capital Property	653
24.2.3.1	Potential to Increase Annual Donation Limit	653
24.2.3.2	Gifts of Publicly Traded Securities and Mutual Funds.....	653
24.2.3.3	Gifts of Employee Stock Options	654
24.2.3.4	Gifts of Canadian Cultural Property and Ecologically Sensitive Land	654
24.2.4	Donor Advised Funds.....	654
24.2.5	Making a Gift in Your Will.....	655
24.2.6	Direct Beneficiary Designations.....	656
24.2.7	Annuities	657
24.2.8	Charitable Remainder Trusts.....	659
24.2.9	Corporate Contributions.....	660

Table of Contents

24.3	Planned Giving Using Insurance	660
24.3.1	Designating a Charity as Beneficiary	660
24.3.2	Distributing the Insurance Proceeds Through Your Will.....	661
24.3.3	Purchasing an Insurance Policy	662
24.3.4	Buying an Insurance Policy Through Your Corporation	662
24.3.5	Other Insurance Strategies	663
24.4	Structuring the Gift	664
24.5	Jurisdiction Differences.....	665
24.5.1	Quebec.....	665
24.6	Case Studies.....	665
24.6.1	Insured Annuity	665
24.6.2	Using Insurance to Fund a Charitable Gift	665
25 — Insurance		
25.1	Living Benefits	668
25.1.1	Disability Insurance	668
25.1.2	Critical Illness Insurance.....	670
25.1.3	Long-Term Care Insurance	671
25.2	Life Insurance.....	672
25.2.1	General Considerations.....	672
25.2.2	Term Insurance.....	674
25.2.3	Permanent Insurance	675
25.2.3.1	Term to 100 Insurance.....	676
25.2.3.2	Whole Life Insurance	676
25.2.3.3	Universal Life Insurance.....	678
25.3	Personal Insurance vs. Group or Mortgage Insurance.....	679
25.3.1	Group Policies	679
25.3.2	Mortgage Insurance	679
25.4	Jurisdiction Differences.....	680
25.4.1	Alberta	680
25.4.2	British Columbia	680
25.4.3	Manitoba	681
25.4.4	New Brunswick.....	681
25.4.5	Newfoundland	681
25.4.6	Northwest Territories	681
25.4.7	Nova Scotia	682
25.4.8	Nunavut	682
25.4.9	Ontario	682
25.4.10	Prince Edward Island	682
25.4.11	Quebec.....	683
25.4.12	Saskatchewan	683
25.4.13	Yukon	683
Endnotes.	685
Index.	715