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TAX PLANNED WILL PRECEDENTS, 4TH

Butler

Release No. 8, September 2025

Written by a tax and estate planning specialist with over 30 years experience practicing law, this fourth edition of Tax Planned Will Precedents is an invaluable handbook for any lawyer engaging in estate planning. It features significant updates to commentary as well as a reorganization of relevant clauses in a more intuitive manner. It also features many useful forms and checklists including: the Estate Planning Information checklist, the Information for Executors form, the Checklist of Information about Testator, Directions to Executors and Trustees, and the Will Checklist.

What's New in this Update:

This release features a rewritten and revised precedent in Chapter 7 – Part VII-A Trusts and Trustees. The text also updates Chapter 3 – Part III Dispositive Clauses Commentary and Alternate Clauses for Essential Elements of the Will, Chapter 4 – Part IV Administrative Powers of Executors and Trustees and Appendix D – Digests.

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Highlights

- **Part III—Dispositive Clauses—Trusts to Hold Cottages**—The testator died 22 years ago, leaving the cottage to her surviving children. The children were able to opt out of taking their share in the cottage and be paid \$5,000. No child opted out. One of the children personally paid the property taxes and made improvements to the property, staying at the property year-round as her home. The other two surviving children were seeking the sale of the property. The court determined that the property was held in joint tenancy – the interest of their deceased siblings ended upon their death. The court noted that “[g]enerally speaking, a testator cannot force individuals to own or continue to own a property indefinitely to keep it in the family, even if it is their genuine intention”. The court ordered that the property be sold and that the funds deposited in trust pending determination of how the proceeds should be divided, but that the sibling who lived in the property was to receive an unequal share in her favour: *Drumonde v. Spellay*, 2025 ONSC 3221.