

YOUR GUIDE TO

# Charitable Giving

& ESTATE PLANNING<sup>®</sup>

FALL 2019

## Make Giving Back a Holiday Tradition

---

### Bold New Beginnings

*CNIB Foundation experiences a rebirth in its second century*

---

### An Overlooked Opportunity for Giving

*Unlock tax-deferred cash in a tax efficient manner with a gift of life insurance*

---

### Estate Planning Considerations for Singles and Singles with Children

---

**PLUS:**  
**A Directory of Professional Advisors and Charitable Organizations**

# Estate Planning Considerations for Singles and Singles with Children

by Lori Duffy and Cecile Ko Brock

While making a Will may seem like a one-size-fits-all endeavour to many, customizing an estate plan is a delicate exercise, especially as life changes and circumstances evolve. For single people and single people with children, the process can involve different considerations than for those with a spouse. Ensuring that appropriate individuals are appointed as estate trustees and guardians, as attorneys for property and personal care, and taking note of tax, probate planning and charitable giving opportunities, are critical to ensure that assets are transferred to the intended beneficiaries at the right times. It is also important that the right person is appointed to care for you in the event you become incapable of making personal care decisions. Many people focus on what will occur on their death, when in many cases, more consideration should be given to who will assist them in illness or on incapacity. This can be a more challenging decision for single people who do not have a spouse or children to take on this role. It can be a lot to ask of a friend or more remote relative, especially if they are the same age as you!

Consider the structure of a basic estate plan applicable to many married or common-law couples. Typically, the testator appoints the surviving spouse as the estate trustee and gives the estate to that spouse. If the spouse has predeceased the testator, then an alternate estate trustee,

such as an adult child, would step in, and the estate would be divided among the children who survive the testator with a further gift over to surviving grandchildren. The inheritances of younger beneficiaries may be held in trust and managed on their behalf until a specified age.

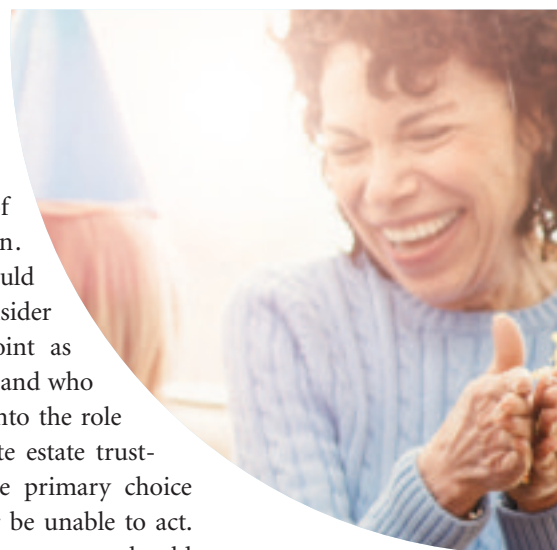
An estate plan for a single person can have additional layers of complication. A testator should carefully consider who to appoint as estate trustee and who should step into the role as an alternate estate trustee should the primary choice predecease or be unable to act. Ideally, an estate trustee should be trustworthy, organized, and someone who takes initiative and gets along well with the beneficiaries. It may be difficult to find someone who fits this profile, especially one who is likely to outlive the testator and is willing to take on the appointment, let alone a second person who would be willing to act as an alternate estate trustee. A single person may consider appointing a professional estate trustee, such as a trust company or a professional that they have worked with, to ensure continuity in the role. This same choice is often named as the attorney for property.

If a single person has no dependants, they have more latitude and opportunities to include charitable gifts and donations in their plan.

For a single person with children or dependants, similar considerations should be made with respect to appointing

an estate trustee because the child may be a minor or is not suited to the position. Further, because the child may inherit at a younger age, the funds should be managed on their behalf until they are responsible enough to manage their own money. The use of discretionary trusts or trusts with a staged distribution schedule, together with a reliable trustee to manage the funds for the child, is a good idea.

Single persons with minor children must also consider the appointment of a guardian. The guardian and the estate trustee may be different people. For example, the estate trustee may be skilled at investments and saving and the guardian may be better at raising children and understanding their needs, such as extra tutoring or camp. A good dynamic between them



Lori M. Duffy



Cecile Ko Brock

CONTINUED ON PAGE 6



## Estate Planning Considerations for Singles and Singles with Children

### CONTINUED FROM PAGE 5

is essential because they must cooperate for the benefit of the child.

Determining who should be appointed as attorney for personal care is often the hardest decision for a single person. This is a very personal role as the attorney must make health care decisions and deal with all personal care needs. Our legislation provides that spouses or children may make such decisions if no attorney has been appointed. If a person does not have a spouse or children, or an attorney appointed, then more remote family members may

make these decisions. You may not want a sibling or cousin in that role, so completing a Power of Attorney for Personal Care is very important.

Single persons should also take note of several probate and tax planning opportunities. In Ontario, Estate Administration Tax is approximately 1.5% of the value of the estate. Single persons with interests in private company shares or valuable personal effects can take advantage of the estate planning tactic of executing multiple wills to prevent the value of the assets in the secondary will from being subject to Estate Administration Tax. This can result in

considerable tax savings.

Fewer options are available for beneficiary designations on registered accounts. A single person cannot designate a spouse as successor holder on a TFSA or as successor annuitant on a RRIF. Only beneficiaries can be designated on TFSA and RRSP accounts, meaning that the recipient would not be able to replace the account holder or acquire the rights relating to the account, but would receive the assets held in such an account.

A single person working on their estate plan will likely have to spend more time selecting who will be their estate trustee and attorney for property and

personal care. However, this may be balanced by the testamentary freedom they have if there are no dependants with expectations of an inheritance!



#### Lori M. Duffy

Lori Duffy is a partner and heads the firm's Estates, Trusts and Charities Practice Group. She specializes in wills, estate administration, estate planning and charities.

lduffy@weirfoulds.com  
www.weirfoulds.com

#### Cecile Ko Brock

Cecile Ko Brock is an associate in the Estates, Trusts and Charities Practice Group. Her practice includes all areas of trusts, wills, estate administration and establishing charities and non-profit organizations.

ckobrock@weirfoulds.com  
www.weirfoulds.com

When you have worked a lifetime to build an estate, you want to ensure you carefully plan for its eventual management and distribution.

Our estate lawyers can help you put the right plan in place.



4100-66 WELLINGTON STREET WEST, PO BOX 35, TD BANK TOWER  
TORONTO, ONTARIO, CANADA, M5K 1B7  
+1 416.365.1110 | WEIRFOULDS.COM

WeirFoulds<sup>LLP</sup>