

Young Adults Vulnerable Without Estate Plan

By *Thomas E. Junkin*

Perhaps it is that natural sense of youthful immortality. Perhaps it is the financial realities that accompany the early days of building one's net worth. Perhaps it is all the other reasons people use to procrastinate about having basic estate planning documents in place. Regardless of the reasons, 88% of Canadian adults between the ages of 27 and 34 do not have a will.¹ This astonishingly high number emerged as part of a 2012 survey. It is especially disconcerting when you consider the average age of mothers is approximately 30 years.² So, a very large proportion of the "no will young adults" actually have at least one dependent child.

We believe every person over the age of 18 should do some basic estate planning. Maybe it is winning a lottery or inheriting a large sum of money that alters life dramatically. Even the healthiest younger person can have a life-changing accident or illness. We know a lot of people can no longer appoint a beneficiary, grant a power of attorney, make a will, or designate someone to make health care decisions on their behalf because they have lost their legal capacity due to a tragic injury. The time to do critical estate planning is while you still can, and before such plans need to be put into action.

Intellectually, most young people realize estate planning becomes essential as soon as another person, usually a spouse or a child, is financially dependent upon them. Marrying, buying a home, or the birth or adoption of a child should (but according to survey results, apparently does not) trigger immediate action.

Not only is the perception that estate planning is for "older" adults inaccurate, realistically young adults have distinct needs as compared to parents or grandparents. Where older generations are focused on minimizing tax and keeping the family peace, younger adults will be more concerned with protecting dependants from a sudden loss of income, or in the event of death, ensuring their spouse and children will be safe and financially secure. With that in mind, here is a look at what estate planning can involve even when you are just "starting out."

MAXIMIZING THE VALUE OF YOUR ESTATE

Relatively speaking, your net worth may be modest as you begin to get established. Life insurance, including group insurance plans offered by an employer, or private policies purchased for added protection, will often create a sizable "instant estate" if the primary earner dies. The best time to

determine the amount of insurance needed to protect your family, and to buy insurance at the most affordable price, is when you are young and healthy.

Minimizing unnecessary taxes and expenses can help maximize your estate value. While there are no magical solutions to eliminate income taxes, strategies—such as investing in a Tax Free Savings Account or Registered Retirement Savings Plan (RRSP), establishing a Registered Education Savings Plan or Registered Disability Savings Plan, or appointing your spouse as beneficiary of your RRSP—can result in significant savings, especially if started when you are young. If you live in a province with high probate taxes, get qualified advice about strategies to reduce such taxes by passing assets outside your estate, perhaps by naming designated beneficiaries or holding property like your home in joint names with right of survivorship built into the property title.

MANAGING THE RISKS OF INCAPACITY

There are two distinct risks related to the possibility that illness or accident results in a loss of physical or mental capacity. The most obvious one is the loss of control over critical decisions about your finances or your health care. Putting the standard tools in place to manage this risk is critical to having a say about your future. These tools are an Enduring Power of Attorney (which appoints someone to manage your finances) and a Health Care Directive³ (which appoints an agent to make health care decisions on your behalf). We recommend that every adult person have these documents in place.

The more subtle incapacity risk is that you become legally unable to do the estate planning that you put off doing. If you lack mental capacity due to illness or accident, you may be unable to make a will or appoint an attorney or health care agent. Consider being alive, but potentially unable to control who makes important decisions on your behalf for the remainder of your life, who will inherit your money, or who will eventually administer your estate. Think about the future without having a say. That is why we say the time to prepare estate planning documents is now—before they are much needed.

1. Mary Warner and Davina Ramnarine, "Survey: More than half of Canadians do not have a signed will," LawPRO, Lawyers' Professional Indemnity Company, May 7, 2012, <https://www.lawpro.ca/news/pdf/Wills-POAsurvey.pdf>.
2. "Fertility: Fewer children, older moms." Statistics Canada, September 28, 2016, <http://www.statcan.gc.ca/pub/11-630-x/11-630-x2014002-eng.htm>.
3. Each province uses different legal terms for these documents. We have used the most common generic terms, which are understood by most professionals.