



WILLS WORKBOOK

**A manual to assist you in putting your personal affairs in order,
including possible legacy stewardship,
in thanks to God for the gifts and blessings given to you.**

June 2023

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INTRODUCTION.....	3
DOCUMENTS NEEDED TO GET YOUR AFFAIRS IN ORDER.....	3
<i>Wills</i>	4
<i>Representation Agreements, Enduring Power of Attorney</i>	5
<i>Organ or Body Donation</i>	6
<i>Suggested bequest wordings</i>	6
Types of Gifts to create a legacy	8
PLANNED GIVING RESOURCES.....	10

Introduction

***“Watch therefore for you do not know on what day the Lord will come.”
(Matthew 24:42)***

Jesus’ words may seem a warning to some, but for those who are prepared, they are words of assurance that He will come and will reward our faithfulness. Preparation, true spiritual preparation, encompasses every aspect of our lives: our spiritual lives, our business lives, our community lives, our family lives, and our personal lives. Each of us is expected to keep his or her house in order and to plan for the future.

At the time of a person’s sudden illness or death, family members or friends are often faced with the need for specific information. It is extremely helpful for them to have access to a record of insurance papers, marriage and birth certificates, bank account numbers, investments, etc.

For married couples, each spouse should compile separate information and prepare separate documents, although many of the materials will be the same. This booklet can help you make decisions about what is to happen to your assets and your corporal self at the time of incapacitation or death.

Some people keep one copy in a plastic bag in the refrigerator for easy access. These instructions are not legally binding, but show the intent of the person signing the form as of the date signed.

Ordering Your Affairs

A. WHAT IS A WILL?

A Will is a written document in which you indicate your wishes about how your estate will be distributed upon death. It tells WHO will receive WHAT, and WHEN they will receive it, and HOW things will be managed before they receive. A Will must be VALID before your wishes can be followed. A Will is absolutely essential as an important way to ensure your wishes are carried out after your death. Make it a priority to have an up-to-date Will. It lays the foundation for your entire estate plan

B. WHAT IS A VALID WILL?

A Will is valid, or recognized by law, in Newfoundland and Labrador when it complies with the Wills Act RSNL. These rules govern WHO can make a valid Will and HOW a Will must be executed (properly subscribed, signed, and

witnessed) to be valid. If a Will does NOT follow these strict rules, it may be INVALID, which means that the person will be declared upon death as having died INTTESTATE, i.e. without a Will.

C. WHO CAN MAKE A WILL?

If you are 17 years of age or older, you can make a Will in Newfoundland and Labrador. There are some exceptions to this rule, for example sailors or fishers may dispose of their property while at sea - allowing younger persons to make a Will if they are married or are members of the Armed Forces.

D. HOLOGRAPH WILLS

Newfoundland law does recognize holograph Wills. A holograph will is one written by the testator himself or herself, usually in handwritten form, and signed without witnesses. However, it is preferable to have your will drawn up by a lawyer to ensure that it complies with the requirements of the Wills Act and other legislation that could impact upon your will.

E. WHAT HAPPENS IF YOU DIE WITHOUT A WILL?

If you die without a will, you die INTTESTATE. The following table shows what you lose control over and what will happen instead, in general terms, concerning intestate estates.

WHAT YOU LOSE	WHAT WILL HAPPEN INSTEAD
You can NOT select an estate trustee.	The COURT will appoint an estate trustee called the Administrator.
You can NOT elect to waive the requirement for the estate trustee to act without a bond.	Your ESTATE PAYS the cost of bond fees for the administrator.
You can NOT select the guardian for your minor children.	The COURT appoints the guardian.
You lose control over management of your minor children's share of your estate.	The shares of minor children are paid INTO COURT and held in trust until they reach 19 years of age.
You lose the less-expensive method of probate.	You generally pay MORE for the process of administration than for the process of probate.
You lose the ability to plan for greater	You will likely pay more TAXES than
WHAT YOU LOSE	WHAT WILL HAPPEN INSTEAD
Tax savings	necessary
You lose the power to choose WHO will be your beneficiaries, WHAT exactly each will get, and WHEN they get it.	The GOVERNMENT dictates by legislative rules WHO gets WHAT and WHEN they get it.

You lose the power of distributing something to persons outside your family.	The GOVERNMENT decides what your family gets. No one else.
You lose the choice of making a gift to your church or other charity. Your church or favorite charity will get NOTHING from your estate. You lose the power of giving your estate trustee your choice of powers to invest and manage assets before they are distributed.	The GOVERNMENT dictates to the Administrator what assets are kept and how to manage them, and what assets must be sold, according to legislated rules and not according to market conditions.
You lose the ability to make your wishes known and followed.	The GOVERNMENT decides everything.

Make sure you have a current Will. Review your own values about property and stewardship in life and death. Learn as much as you can about legal consequences to consider in estate planning. And encourage others to do the same. Before you plan a seminar for your own parish, attend two or three estate planning seminars. You will not only learn something for yourself but you will also get ideas on how your parish can structure and sponsor seminars.

F. INCAPACITY BEFORE DEATH

Your Will has no effect until your death. It has no power to deal with circumstances if you become mentally incapacitated while living. We all face the risk of incompetence, no matter what age we enjoy. An accident could impair us for life. As we get older, other factors such as disease and physical degeneration increase the risks.

A document called a **Power of Attorney** allows you to appoint someone as your Attorney to manage your affairs if you are not able to do so. It grants a lot of power, so you must appoint someone you trust implicitly. You do not want someone who might abuse the power and use your property for their own gain while you are vulnerable. Power of Attorney documents can vary widely – it is best to have a lawyer prepare one for you. The usual rule in law is that a Power of Attorney expires (becomes null and void) if you become incompetent at a later date. However, a professional can ensure that it will continue despite the onset of incompetence.

If you do not have a valid **Power of Attorney** and you become incompetent, a family member may apply to the courts for an order to be appointed as a Committee (pronounced com-mit-TEE). The Committee has broad powers to manage your affairs. However, because you did not make the appointment, the

Court and the Public Trustee both play significant roles to oversee the appointment. An application for committeeship is much more expensive than granting a Power of Attorney, and involves a high degree of government involvement. If you have someone in your life that you trust to take care of your affairs if you were not able, the Power of Attorney is an important part of your estate plan.

Organ or Body Donation You may have some ideas about donating organs or your body for the functional or medical use of others. These ideas need to be discussed with your family and stated clearly, in writing.

Once you have made a Will, tell your executor where you keep your Will and other important documents. S/he will need to access this information immediately on your death.

Suggested Bequest Wordings

The Diocese of Eastern Newfoundland and Labrador and its parishes and related groups are pleased to provide the following suggested bequest wordings for your lawyer to use in drawing up your Will. Your lawyer should help you determine which may be right for you. Regardless of the specific wording used, it is important that the proper legal name of the entity be used. You may obtain the proper name of your parish from its office or from the Diocese if you wish to make a bequest directly to your own parish. To leave a bequest to the Diocese use the name "Diocese of Eastern Newfoundland and Labrador". (This term may also be used if you wish the Diocesan Office to receive and/or manage funds to benefit a parish.) If you wish to make a bequest to benefit a specific program affiliated with the Diocese (e.g. Queen's College, Mission to Seafarer's, etc.), please contact the Diocesan Planned Giving/ Stewardship Office or the Business Administrator for the proper legal name.

You may make a bequest in one of several ways. Here are some examples, with the appropriate wording:

A general bequest is for a certain dollar amount of property, usually cash: e.g.,

I give to The Diocese of Eastern Newfoundland and Labrador the sum of \$_____ to be used for the general purposes of the Diocese at the discretion of the Diocesan Council.

A specific bequest directs that the Church is to receive a specific piece of property: e.g.,

I give 500 shares of XYZ stock to The Settlement Fund of the Diocese of Eastern Newfoundland and Labrador.

A residual bequest designates all or part of what remains after debts, taxes, expenses and other bequests have been paid: e.g.,

I give 50 per cent of the rest, residue and remainder of my estate to Queen's College

A contingent bequest takes effect only under certain conditions: e.g.,

In the event that my spouse does not survive me, I give to The General Synod of The Anglican Church of Canada the sum of \$__.

Not only can you choose how to make a bequest, you can also choose one or more purposes such as Parishes, parish ministries, Dioceses etc. for which it will be used. While most bequests to The Anglican Church of Canada are for its general purposes (as in the first example), you may also make a restricted bequest for a particular program or ministry. Subject to church policies, you may specify that the principal of your bequest be held as an endowment from which only the income is spent, or you can establish a fund in your name, or the name of a family member, friend or colleague, as a thanksgiving offering or as a memorial.

A Power To Vary clause is a good idea where a bequest is intended. It gives the Church the power to use your gift for a different purpose in the event that the original purpose is no longer possible and/or necessary.

Loving Letter

A Will is a legal document that lets you direct the distribution of your material assets. Often it is also the last communication from you to those you love. In order for you to leave a warmer last communication, we suggest that you also prepare one or more "loving letters" (or audiotapes, videotapes, computer disks, etc.) to say the loving things you would like your family and friends to know. These should be kept with the Will in a sealed envelope and reviewed and updated whenever the Will is reviewed and updated.

What Types of Gifts Can Be Used to Create the Legacy of Your Faith?

There are three types of gifts that can be used to create the legacy of your faith. They are: 1) gifts that you give now and that obtain a current year tax saving; 2) gifts to be given in the future, resulting in future year tax savings; and 3) gifts that provide an immediate benefit and that you continue to use during your lifetime; i.e., gifts that give back.

Gifts for the Present

Cash

Outright gifts of cash are most suitable for those with significant cash or GIC investments who are looking for an opportunity to support a current ministry program while enjoying income tax savings of up to 40% of the gift amount.

Appreciated Property

Appreciated property, which could attract significant tax on capital gains, can be sheltered through the donation of the property. Gifts of property may also form part of a Charitable Remainder Trust or a Gift of Residual Interest.

Publicly Traded Securities

Gifts of publicly traded securities offer an opportunity for donors to combine charitable giving with significant income tax savings. The capital gain on a direct gift to the church is reduced to zero while the donation receipt is for the full market value of the securities transferred.

Note: If the real estate or securities have decreased in value since they were acquired, they should be sold before making the gift, thus establishing a capital loss and a potential tax deduction.

Gifts for the Future

Bequest

A bequest to the church through a will establishes a legacy and reduces income tax in the year of death and possibly the prior year. A bequest can take any of several forms. Following are examples.

- **General**
A general bequest is for a certain dollar amount of property, usually cash: "I give to The Parish of St. Anywhere the sum of \$100,000..."
- **Specific** A specific bequest directs that the Church is to receive a specific piece of property: "I give 500 shares of XYZ stock..."
- **Residual**• A residual bequest designates all or a portion of whatever remains of an estate after all debts, taxes, expenses and other bequests have been paid: "I give . . . fifty percent (50%) of the rest, residue and remainder of my estate..."
- **Contingent**
A contingent bequest takes effect only under certain conditions: "In the event that my wife does not survive me, I give to (legal name of parish, diocese or other ministry) the sum of \$10,000."

In addition to the choice of form, the donor also has options as to the purpose for which the bequest will be used. While most bequests will be “for the general purposes the Church at the discretion of the Parish Vestry”, the donor might choose to also make a restricted bequest to be used for a particular program, ministry or church project.

However, avoid being too specific. If the named program or project no longer exists when the time comes, there will be a problem.

Subject to diocesan or parish policies, the donor may specify that the principal of the bequest is to be held as endowment from which only the income is spent. Alternatively, the donor may wish to establish a named fund in the donor’s name or as a memorial to a family member, friend or colleague. For any of these purposes, you or your advisor should consult in advance with the Diocesan Gift Planning Consultant to ensure that your wishes can be met and that the bequest provision is properly worded.

Life Insurance

Gifts of life insurance can provide a significant future gift to the church at a modest present cost. For the gift of a paid up policy, the donation receipt will be based on the paid up value. If not fully paid up, the donation receipt will be for the present cash value. Future donation receipts will be available for the annual premiums paid. The church must be owner and beneficiary of such a policy. When the donor dies, the Church as beneficiary receives the proceeds of the policy. Other life insurance strategies may be employed to satisfy family concerns.

RRSP’s and RRIF’s

A Gift of Retirement Funds may be an appropriate planned gift for the surviving spouse of a couple. Registered Retirement Funds are fully taxable upon the death of a surviving spouse. A gift of Retirement Funds to your Church may completely offset the tax otherwise payable by the donor’s estate.

Planned Giving Resources

You Can’t Take it With you: The Common Sense Guide to Estate Planning for Canadians by Sandra E. Foster, 4th Edition, John Wiley & Sons, 2002,

Estate Planning Workbook, A Companion to “You Can’t Take it With You” by Sandra E. Foster, John Wiley & Sons, 2002,

The Canadian Guide to Will & Estate Planning, 2nd Edition by Douglas Gray & John Budd, McGraw-Hill Ryerson, 2002,

The Last Act: Closing the Book on Your Finances by Kimberley Short and Larry Short. Cormorant Books Inc, 2020

FOR MORE INFORMATION, CONTACT

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