

The Butler Bulletin

Butler Wills and Estates

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What is a Codicil?

And Why Don't People Use Them Anymore?

A codicil is an amendment to an existing will. It is intended to make a small change when the will is otherwise suitable. For example, a codicil could be made if the will named an executor who moved to another country. The owner of the will might want to name a new person, but make no other changes to the will.

A codicil has all the same rules as a will when it comes to signing and witnessing. Once a codicil has been prepared and properly signed, it is attached to the will so that the two documents will be read together when the time comes.

Codicils became popular because they were quicker and easier to make than whole new wills. This meant that they were cheaper to prepare. For many years, consumers were able to save time and money by having codicils made instead of new wills.

However, times and technology change. Codicils have fallen out of favour and are rapidly becoming obsolete. This is happening for two main reasons.

1. People went too far with codicils. They would make as many or six or seven codicils to one will. This ended up creating absolute chaos. Will A was changed by codicil 1. It was changed again by 2 and 3. Then codicil 4 would change 1 and 5 would change A again. In the end, some wills became incomprehensible and it will never be known whether those estates were actually carried out the way the deceased person really wanted.

2. These days, wills are drafted on computers. When changes need to be made it is no longer necessary to re-type the entire document because it has been saved on the computer. This means that it's actually cheaper and faster NOT to create a codicil, but simply to go into the existing will and change it.

Codicils, like typewriters and rotary phones, served their purpose at the time and did their job but are now almost never used.

We've Added "Basics of Being an Executor"

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Answers to all your questions about being an executor can now be answered online. We've added a new course to our online seminars titled "The Basics of Being an Executor", which is based on our in-house presentation of "Executor in an Hour".

This seminar covers:

- Renunciation
- The duties and responsibilities of an executor
- The three most common complaints by beneficiaries
- Tax
- Minimizing liability
- And more!

Register today at:

butler-wills-and-estates.teachable.com

BLOGS YOU MAY FIND USEFUL

Many of our customers are familiar with Lynne's blog, www.estatelawcanada.blogspot.com. Here are some of the other blogs that you may find helpful when looking for Canadian legal information.

<http://blog.tickerlaw.com> – This site has general estate information, and is of particular interest for people who enjoy reading about celebrity estates.

www.allaboutestates.ca – On this blog you'll find posts by lawyers, accountants, and senior care specialists, many of which focus on Canadian topics.

www.yourestatemattersblog.ca – Written by an Ontario law firm, this blog tackles many Canadian issues and cases.

<https://hullandhull.com/blog> - This blog is written primarily for other lawyers; however, it contains a lot of information.

What is the difference between joint tenants, and tenants-in-common?

When you go to an estate lawyer to discuss your estate plan, he or she should ask you about the title to any properties you have, such as your home, cottage, and revenue properties. Often people know whose names are on the title, but they aren't sure if the situation is a joint tenancy, or if they have tenants-in-common. When it comes to planning your estate there is a huge difference.

If there is a joint tenancy, the situation is "last man standing" – when one tenant passes away, the remaining tenant(s) retain ownership of the property. The last person to pass away owns the entire property, and only that last person can give away the property in his or her Will.

With tenants-in-common, each person owns their own portion. For example, if there are three people each person owns one third. Each owner can do whatever they like with that portion, including selling it or giving it away in his or her Will.

With spouses, property is most commonly held as a joint tenancy so that when one person dies, the other person automatically owns the home.

The way your property is owned makes a difference to your estate planning because you cannot give away something you don't own. If you aren't sure what the arrangement is for your property, contact your local Land Registry office.

Listen for us on VOXM, weekdays at 1:30 pm!

Seminar Tour

From May 17-19 one of our most popular seminar topics will be available outside St. John's!
We will be presenting "Top 10 Estate Planning Mistakes" in Clarendville, Gander, and Grand Falls-Windsor.

Registration fee is \$30.00 and includes:

- a copy of the material presented
- entry into a draw for a copy of Lynne's book, *For My Family with Love*
(*One draw per location*)
- light refreshments

EACH SEMINAR IS 75 MINUTES LONG, AND STARTS AT 6:00 PM. DOORS OPEN AT 5:30 PM.

TO REGISTER:

CALL: 221 5511

EMAIL: CHELSEA@BUTLERWILLSANDESTATES.COM

ONLINE: BUTLER-WILLS-AND-ESTATES.TEACHABLE.COM

WE ASK THAT PAYMENT BE MADE AT THE TIME YOU REGISTER. IF REGISTERING ONLINE, PLEASE NOTE THAT YOUR SEAT IS NOT RESERVED UNTIL PAYMENT IS COMPLETE.

GRAND FALLS-WINDSOR - MAY 17 @ THE MOUNT PEYTON HOTEL

GANDER - MAY 18 @ THE ALBATROSS HOTEL

CLARENVILLE - MAY 19 @ THE CLARENVILLE INN

For groups of 10+ please call us to arrange group pricing.

What Does an Executor Need to do to Close an Estate?

Once the executor has completed all of the duties and responsibilities and paid the debts, how is the estate closed?

To get started working on the estate the executor likely went to the courts to obtain a Grant of Probate. Once the work is done there is no court application to end the estate, but there are two documents that are usually prepared to show that the work on the estate is finished.

The first document is the Release. This document is prepared by the executor (or lawyer, if the executor has hired one) and given to the beneficiaries to sign. The executor's accounting needs to accompany the Release so the beneficiaries can review exactly what the executor has done with the estate's finances. Once the beneficiaries are satisfied, they sign the Release and return it to the executor, who then distributes what they are owed from the estate.

The executor does not necessarily need to file the Release, but most do because it creates a court record that the work is complete.

The second document is a Tax Clearance Certificate. This is provided by Canada Revenue Agency, and states that the executor has paid in full all of the necessary taxes for the estate. The executor must request the Certificate from CRA once all the tax returns have been filed and the taxes have been paid. Tax Clearance Certificates are not filed with the court – the executor keeps it in his own records to show that the taxes have been taken care of.

Did You Know...?

The summons for jury duty is a court order, and in Newfoundland you can receive a fine up to \$1000, a jail term up to 6 months, or both if you fail to attend in accordance with the summons.



Please feel free to share this newsletter with others.

*If you have any questions, comments, would like to suggest a topic,
or would like to unsubscribe,
please email us at chelsea@butlerwillsandestates.com*