The “Joys” of Being an Executor

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Solus Trust

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AN AFFILIATE OF RAYMOND JAMES

AGENDA

Part 1: Estate Planning and The Canadian Landscape

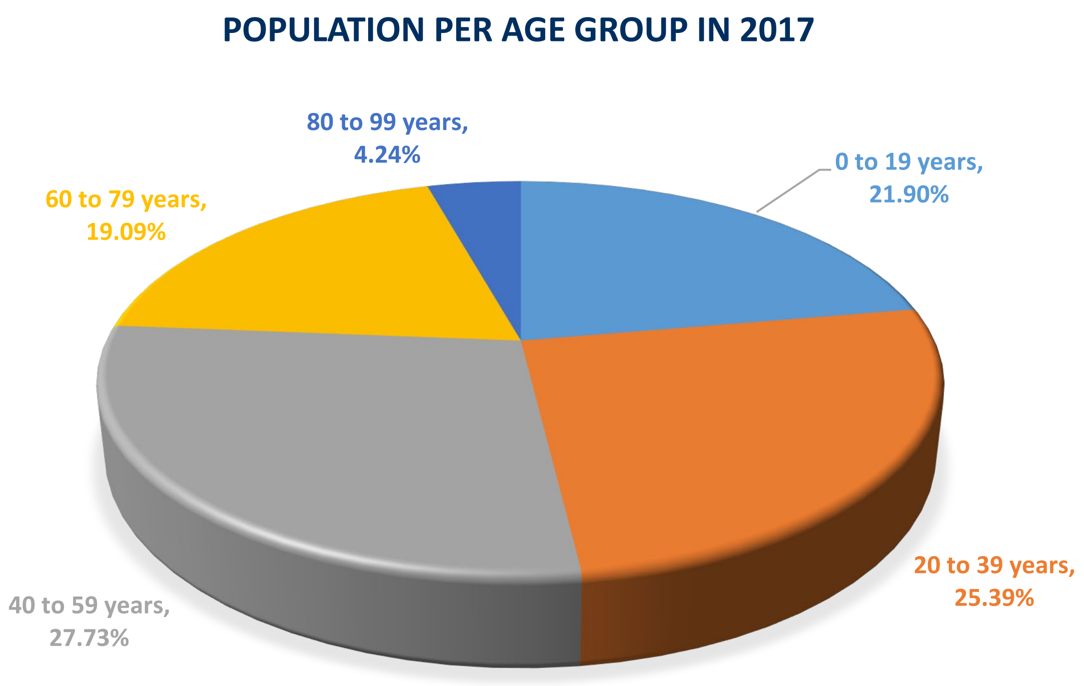
Part 2: The Estate Plan

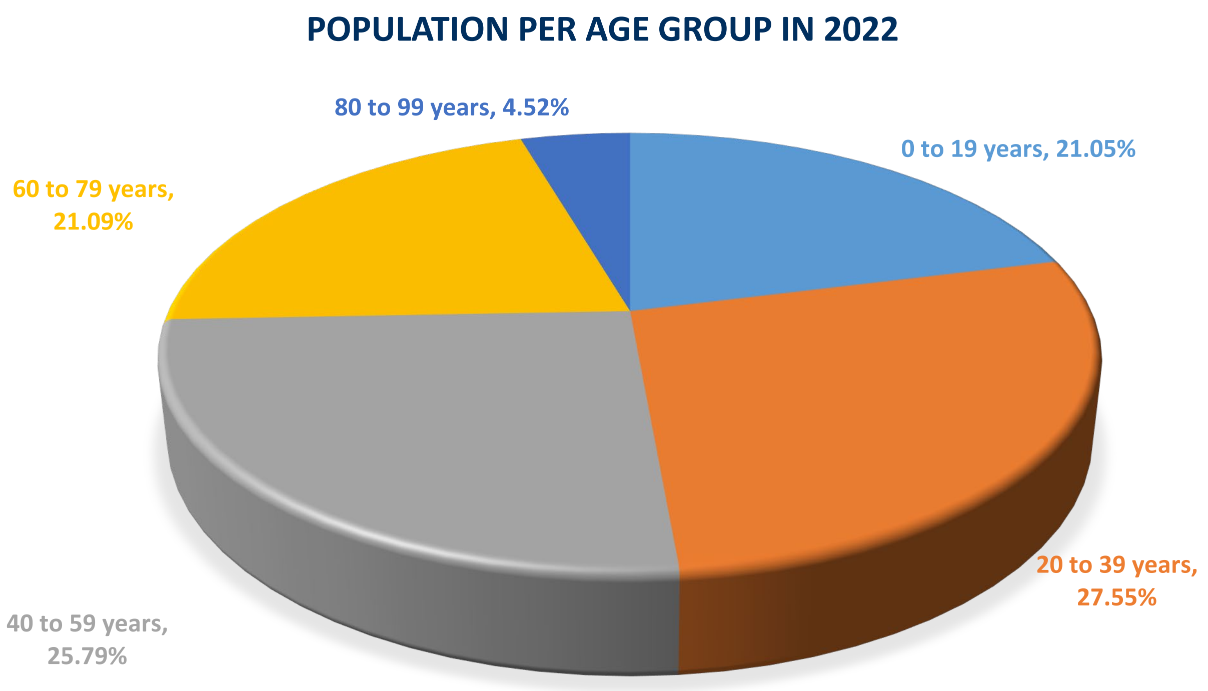
Part 3: Estate Administration

Part 4: Specific Considerations

Part 5: Raymond James and Solus Trust

THE CANADIAN LANDSCAPE





23% of population over the age of 60

26% of population over the age of 60

55% of Canadians have a Will and 40% have powers of attorney drawn up. For Canadians under age 35, the challenge seems to be creating an estate plan in the first place, since only 22% have a Will and only 9% have drawn up powers of attorney.

StatCan – July 1st, 2022

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Estate Planning

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WHAT IS ESTATE PLANNING?

Estate planning is the process of anticipating and arranging for the management and disposal of a person's estate during the person's life in preparation for a person's future incapacity or death.

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Executor

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HOW TO SELECT AN EXECUTOR

Need to consider:

1. Time

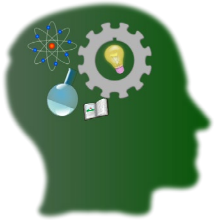
2. Age

What is your date of birth?

DD | MM | YYYY

For example: 31 12 1970

3. Knowledge

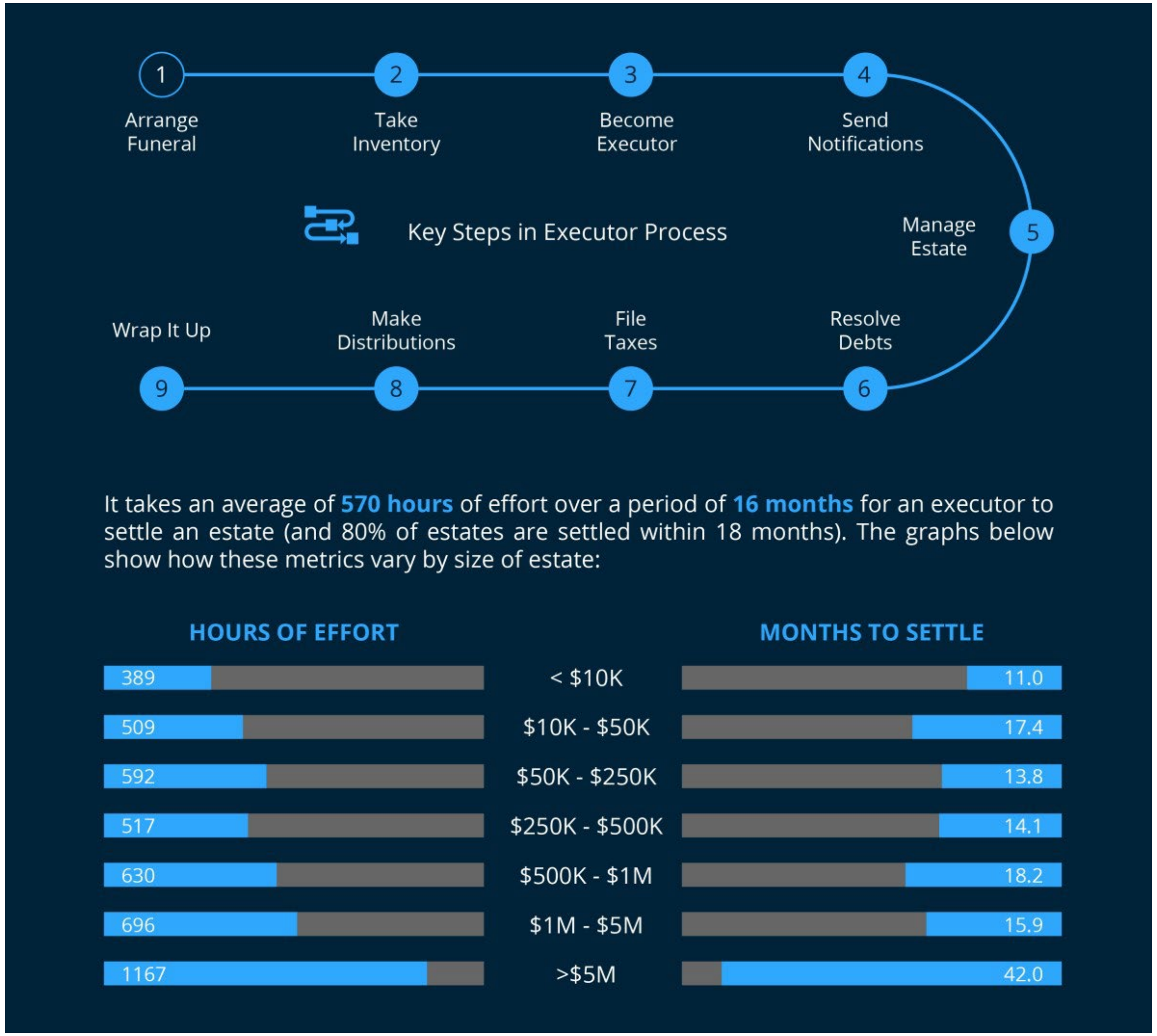


4. Executor location

5. Assets out of the jurisdiction

6. Personal Liability

EXECUTORS: WHAT IS THE JOB?



- Responsible for the administration of the estate
- Has full control over the administration
- Liable up to the value of the estate
- Entitled to fee (approx. 5% of value of estate) – taxable income
- May need to post estate bond, especially if out of province
- Should not be outside of Canada
- Will become the trustee of any trusts in the Will (unless stated otherwise)

Estate value does not always = estate complexity

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EXECUTOR: A SNAPSHOT

- ✓ Read and interpret the Will
- ✓ Carry out funeral arrangements
- ✓ Safeguard assets
- ✓ Find all assets and debts
- ✓ Appraise all assets and debts
- ✓ Amend or apply for insurance as necessary
- ✓ Review any contractual agreements
- ✓ Notify beneficiaries
- ✓ Advertise for creditors
- ✓ Apply for probate
- ✓ File and pay taxes
- ✓ Terminate all services and contracts
- ✓ Sell, transfer or otherwise deal with real estate
- ✓ Hire and monitor professionals for legal services, real estate, appraisals, tax preparation, investment, etc.
- ✓ Deal with household/personal assets
- ✓ Open and operate estate account
- ✓ Deal with digital assets
- ✓ Keep estate record of accounts
- ✓ Settle/litigate claims
- ✓ Maintain communication with beneficiaries
- ✓ Make distributions – interim and final
- ✓ Exercise discretion
- ✓ Obtain waivers or court approval where necessary
- ✓ Apply for final tax clearance

Estate Administration

First Steps

- Find and review the Will
- Collect and review all important documents
- Make funeral arrangements
- Contact all beneficiaries
- Freeze, cancel or redirect all financial and service accounts
- Redirect mail
- Assess immediate needs
  - Dependents
  - Pets
  - Assets

What's Next?

- Dealing with all assets, liabilities and ongoing transactions
- Accounting
- Tax filings and clearance certificates
- Dealing with beneficiaries:
  - Communication
  - Distribution of assets

Step 1

- Locate and review will

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LOCATE AND REVIEW WILL

- First obligation of executor
- Hopefully you know where the will is – if not, check likely locations (ie. safety deposit box, desk drawers, testator’s lawyer)
- If you can’t locate the will, deceased is presumed to die “intestate” – probate would then be required

DYING WITHOUT A WILL

- If a person dies without a will:
- Heirs are subject to a provincially regulated schedule
- Ontario– spouse gets first $350,000 – if children survive, remaining 2/3 to children – 1/3 to spouse

Example: Intestacy with spouse and issue – estate worth more than $350,000 – spouse and children inherit.

Where a person dies intestate in respect of property and leaves a spouse and two children, the spouse and children are each entitled to one-half of the residue of the property after payment of the $350,000 to the spouse. Therefore, if the net value of the estate was $3,000,000, the spouse would receive the first $350,000 and the remaining $2,650,000 would be divided with $1,325,000 to be divided equally amongst the children and $1,325,000 more going to the spouse. In total, the spouse would receive $1,675,000 and the children $662,500 each.

- Common-law spouses not included
- Spouse has no say over money children receive

Step 2

- Make funeral arrangements

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MAKE FUNERAL ARRANGEMENTS

- Executor, not surviving family, has right to make funeral arrangements
- Because executor may not be known until after funeral, deceased's family usually makes these arrangements
- Estate is typically responsible for funeral expenses – provided they are in line with deceased's way of life

Step 3

- Solicit professional counsel

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SOLICIT PROFESSIONAL COUNSEL

Executor support

Being an executor is difficult and time consuming. An executor has ongoing responsibilities to the estate and others. Many are turning to a professional administrator to help them. Executor Support is a specialized service from Solus Trust. It is designed to assist those faced with the task of administering an estate.

Step 4

- Notify beneficiaries and others

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NOTIFY BENEFICIARIES AND OTHERS…

- Executors are required to notify beneficiaries (and others who can make a claim against the estate) of their interest in the deceased's estate
- Generally, includes:
  - Beneficiaries
  - Spouses and children of the deceased
  - Common-law spouse of the deceased

DEALING WITH BENEFICIARIES

- Even if the executor is completing their duties in a timely and skilled manner, beneficiaries may not perceive this if communication is lacking
- Routine, fulsome communication is key to managing the executor-beneficiary relationship, which in turn reduces the potential for conflict.
- Residual beneficiaries are entitled to an accounting of:
  - Assets
  - Expenses / liabilities
  - Income / losses
  - Distributions
  - Executor requests for compensation

Step 5

- Secure estate assets

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SECURE ESTATE ASSETS

- Prepare a complete inventory of the deceased's assets and liabilities, including value at date of death
- Prior year tax return may help to identify income-earning assets
- Advise financial institutions of death and open estate account to manage assets during settlement
- Determine forms required to transfer assets to beneficiaries
- To the extent possible, protect all assets from loss

Step 6

- Submit Will for probate

PROBATE FEE CALCULATION

- Based on value of deceased's estate
- Included assets[1]:

  Non-registered stocks, bonds, mutual funds, real estate (less mortgages), jewelry, automobiles, RRSPs/RRIFs/life insurance payable to estate

- Excluded assets[1]:

  Mortgage(s) on real estate, RRSPs/RRIFs/life insurance (including segregated funds) with beneficiary other than "estate", jointly held assets[2]

[1]*List not exhaustive,* [2]*With rights of survivorship*

PROBATE FEE CALCULATION (ONTARIO)

Estate Value	Probate Fee
< $50,000	0.00%
> $50,000	1.5% of amounts in excess of $50,000

Example
Estate value = $2,000,000
Probate Fee = 1.5% of $1,950,000
*= **$29,250***

PROBATE – ALWAYS REQUIRED?

- Filing for probate is not always required; the following assets might not require a probate certificate
  - Assets that bypass the estate
  - Assets that are readily transferrable (ie. household assets or private company shares) – If you have primary and secondary Wills
  - If the estate is less than $50,000 probate is not required
- No probatable assets? No probate tax
- Where an estate asset requires probate, the entire estate is normally included in the probate calculation, including estate assets that do not require probate

Step 7

- Advertise for creditors

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ADVERTISE FOR CREDITORS

- It is advised that executors advertise for creditors
  - Three consecutive weeks in local daily newspaper is suggested
  - Creditor claims normally required within a month of first advertisement
- Should request that creditors contact executor for settlement
- Protects from claims after distribution of estate assets

Step 8

- Pay debts
- Complete final tax return

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PAY DEBTS AND COMPLETE FINAL TAX RETURN

- Estate assets cannot be distributed until outstanding debts (including income tax) are paid
- If sufficient cash is not available, other assets should be sold to pay the debts
- Where estate has insufficient assets to pay all debts, executor is not responsible
- Filing final tax return and obtaining CRA "clearance certificate" will protect executor from liability

Step 9

- Distribute inheritances

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DISTRIBUTE INHERITANCES

- Once all debts have been paid, the estate can be distributed
- Generally, assets should be distributed as follows:
    - Cash legacies and specific property bequests
    - Provide for trusts (where applicable)
    - Residue of estate

DISTRIBUTE INHERITANCES CONT.

Checklist before making interim distributions:

- ✓ Inventory
- ✓ Probate
- ✓ Payment of liabilities
- ✓ Payment of particular legacies (and interest on legacies payable in some provinces)
- ✓ Proper calculation considering in-kind assets
- ✓ Work with financial advisors to ensure ease of making distribution

Calculating the holdback:

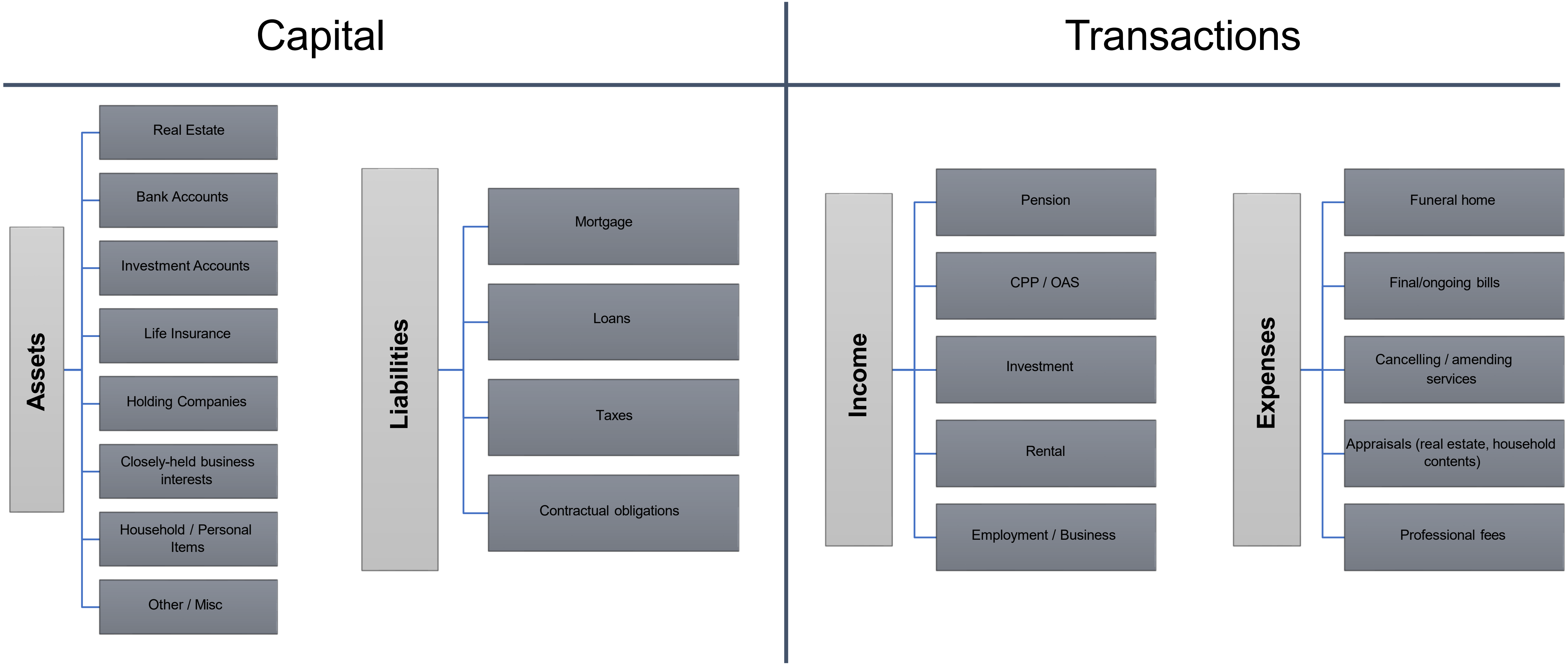
- Professional fees
- Future estimated taxes
- Percentage of current estate value

Final Distribution after tax clearance certificate

Step 8

- Estate Accounting

THE ESTATE: ASSETS, LIABILITIES, TRANSACTIONS



ESTATE ACCOUNTING

Initial Assets and Liabilities Statement

- Date of death "snapshot"
- Important for tax, probate and beneficiaries

Record of Transactions

- Capital receipts
- Capital disbursements
- Income receipts
- Income disbursements
- Discretionary decisions

Regular Asset and liability statements

- Assets realized
- Contingent assets/liabilities realized
- Distributions

- Estate accounts are similar to a business financial statement
- Estate accounting is not
  - A bundle of receipts and invoices
  - A bundle of bank and/or investment account statement

Did you know?
If an executor cannot account for estate activity, they may be liable for unexplained payments, even if the executor was legitimately paying for estate expenses.

ESTATE ACCOUNTING CONT.

Estate accounts include a statement of:

a) assets at the date of death
b) all monies received*
c) all monies disbursed*
d) investment accounts
e) all estate assets that have not been realized
f) all estate money and investments
g) all liabilities, including contingent liabilities
h) compensation claimed by estate trustee
i) other statements and information as the court requires

*Capital and income receipts must be recorded separately

ESTATE ACCOUNTING: ESTATE BANK ACCOUNT

What is the estate bank account?

- New bank account opened after death by the executor
- All money should be gathered and deposited into the account
- All expenses should be paid from the account
- All distributions should be made from the account

It is not:

- A pre-existing bank account
- A bank account that was joint with the deceased and the executor
- A bank account owned by the executor
- An RJL investment account

Why is the estate bank account important?

- Avoids co-mingling of assets
- Maintains record of transactions
- Avoids mismanagement of specific accounts / investments
- Protects the Executor

EXECUTOR LIABILITY

Executors may be personally liable to:

- Beneficiaries
- Debtors
- Third party service providers

To what extent are executors liable?

- The value of the estate
- The value of the contract for services
- The total cost of legal fees
- The total cost of expenses (in theory)

Executors may be personally liable for:

- Loss in value of the estate
- Unpaid debts if funds have been distributed
- Payment on contracts
- Legal fees in the event of a dispute
- Unallowable estate expenses

PREPARING YOUR EXECUTOR

- ✓ Keep estate documents updated
- ✓ Understand the structure of your assets
- ✓ Consider your choice of executor carefully
- ✓ Keep and update estate information:
  - Integrated Will Memo
  - Digital Inventory
- ✓ How will obligations be met on death
  - Contractual
  - Family (support, property claims)
- ✓ Create business succession plan

FUTURE LEGACY GIFTS FOR THE "CHURCH"

Planning Implementation	Estate Basis of Distribution
GIFT ANNUITY ("partial donation" at purchase; income provided during lifetime ; 60+ and $10,000 minimum)	Residual to the "church"
LIFE INSURANCE (existing policy or new policy)	Beneficiary Election or Will
REGISTERED PLANS (RRSP, RRIF, TFSA)	Beneficiary Election or Will
WILL	Bequest Direction
LEGACY DONATIONS (Cash or publicly traded securities)	**N/A – during lifetime of donor**

Solus Trust and Raymond James

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SOLUS TRUST SERVICES

Executor and Executor Support

- Take on the full duties of an executor
- Provide professional, thoughtful administration of estates and trusts at all levels of complexity
- Dedicated team of trust professionals deal with the settlement process from beginning to end
- Manage any potential risks and liabilities associated with being an executor

Trustee and Trustee Support

- Serve as sole or joint trustee for a wide variety of trusts
- Bring not only technical, tax and reporting experience, but, most importantly, impartiality to the administration of trusts
- Provide support in an agency capacity to someone who is a trustee, lending expertise to the trust's administration

Appointment Under a Power of Attorney

- Undertake all aspects of financial administration in the event of loss of capacity
- Bring the professional skills and experience necessary to manage property and finances
- Ensure bills are paid, taxes are filed, and investments are managed, alleviating these burdens from family
- Additional expertise in out-of-province assets, private corporations, and real estate

Legacy Planning & Will Bank

- Ensuring all clients that wish to use our services benefit from comprehensive planning from our Trust Advisors.
- Working alongside external legal and tax professionals to ensure deed drafting aligns with planning
- Undertake Safe storage of your client's legal documents when they have appointed RJTC
- Regular review and updates as requested by Financial Advisor or their clients

SIMPLIFY

- Cash management service to alleviate burden from seniors and busy professionals
- SIMPLIFY services are flexible and can include:
  - Bill payment support
  - Income receipt processing
  - Recordkeeping
  - Important document review
  - Assistance with tax preparation and filing coordination

Charitable Giving Fund

- A structured charitable giving vehicle to invest and grow donated assets tax-free for distribution to client's favourite charities
- Like having a private foundation without the administrative burden of establishing a private foundation
- Carry on philanthropic family values and build a lasting legacy

TOTAL WEALTH SOLUTIONS

WEALTH ADVISORY SERVICES

At Raymond James, our business is you and your financial well-being. We believe that professional advice, on-going education, and wealth planning are key to success. Our total wealth solutions approach looks at your entire life and all its moving pieces to incorporate financial planning, investment management, insurance solutions, tax solutions, estate and trust services, and charitable giving strategies based on your unique circumstances and wishes.

A PARTNERSHIP FOCUSED ON YOU

Supported by our team of specialists, we partner with you, engage in a deep discovery process, and develop a personalized plan for the long term. We connect you with key specialists who are dedicated to help you use your wealth to create the life you envision.

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