

FINANCIAL POST MAGAZINE

Nine tips to help your heirs deal with your eventual death



ANDY HOLLOWAY | April 21, 2015 10:24 AM ET

[More from Andy Holloway](#) | [@FinPostMagazine](#)



This article appears in the April 2015 edition of *Financial Post Magazine*.

Death. A sweet release? Hardly, at least for your family and associates, especially if you didn't leave explicit instructions on how to divide up your estate and that includes your collection of Elvis curios. Antiques? Maybe in your eyes. Memorabilia? Again, maybe. But using such terms doesn't hold sway with a judge if one of your heirs decides to challenge your wishes.

“Never use words like antiques, memorabilia, my stuff, in your will because they are not definable,” says Les Kotzer, a Thornhill, Ont.-based wills lawyer and author of four books including *The Wills Lawyer*. “I had a guy come in who had a homemade will that said ‘I leave everything to my best friends and my favourite relatives.’ I said, ‘What the hell, who are these people?’”

Jillian Bryan, portfolio manager and investment adviser at TD Wealth, says it’s also important to remember that changes in marital status, the birth or death of a family member, or a change in financial situation or employment status are factors that could require you to update your estate plan.

Here are some of the issues that need your attention.

Words matter “One word can destroy your family,” says wills lawyer Les Kotzer, which is why being unspecific tops his list of pet peeves about people who make wills — you do have one, right?

Don’t assume goodwill “Never assume your children will work it out, because it may be their lawyers who have to work it out,” Kotzer says. “Often, the kids want to work it out, but their spouses may not let them work it out. You have third parties involved.” Sorry, mom and dad, you have to plan now.

Be fair... “Don’t favour one over the other. Create neutrality,” Kotzer says. If you can’t decide who should get what, draw lots, flip a coin, but don’t leave it up to the kids to fight it out.

...But not always Don’t create false expectations in your children’s minds. “If you as a parent want the home that you’re living in to go to a caregiving child since she’s given up her life for you, don’t leave it in the pot and think your other kids will give it to her,” Kotzer says. Telling your kids now may create some bitterness, but at least your wishes will hopefully be respected.

Don’t be an ostrich “It’s not always the money people fight about; sometimes they fight about the memories,” Kotzer says. “You can’t divide a painting on the wall and you can’t split a table in the hall. Somebody is going to get it.”

Ring up your marriage “Marriage revokes your will. If you get married in Ontario, you no longer have a valid will. Separation does not revoke your will,” Kotzer says. “There are rings in marriage: the engagement ring, the wedding ring and the suffering.”

Beware of sin Common-law partners are not entitled to an automatic inheritance, Kotzer says, so make sure you include your common-law spouse in the will (if you want to).

Give up some power Make sure you have an executor of your will and someone who has power of attorney, says TD’s Jillian Bryan. If you’re sick, who’s going to deal with your finances? Who is going to make medical decisions for you? “A proper estate plan isn’t just about what will happen when you pass away,” she says. “It’s also important to plan for the unexpected.”

You’re never too young “I have young kids making wills. People who are 20. You know why? They inherited fortunes from their grandparents and if they die, they want certain people to get it,” Kotzer says. “If you die without a will, the law writes the will for you and the law says I don’t care about your favourite charity, I don’t care about your best friend, I don’t care if you don’t speak with one brother, he gets the same as your other brother if you don’t have parents.”

Illustration by Chloe Cushman/National Post