



CESTNICK

TAX MATTERS

Make a Letter of Wishes part of your overall estate plan

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I laughed again this week when I pulled out a copy of the will of Mr. Richard Clarke. He was my wife's great-great-grandfather. In his will, which was dated June 11, 1903, he wrote: "I give, devise and bequeath to my dear wife the brick part of the house, use of the plum orchard, use of the hen house and hog pen, firewood free of all charge, the buggies and cutter, and a cow, horse and pig."

If someone prepared a will like this today it would leave the family scratching their heads. But you don't have to leave firewood and the brick part of a house to one of your heirs for a will to be confusing. I've read many wills that are sure to leave folks wondering what the testator was thinking. Today, I want to talk about the value of a what is known as a Letter of Wishes.

The letter

A Letter of Wishes (LOW) is an informal document that is not legally binding, but is valuable nonetheless and can accompany your will. The LOW can

provide guidance to executors, trustees, guardians and beneficiaries around how you'd like your estate, personal belongings or responsibilities to be handled after you're gone.

Think of the LOW as a document that is not written in "legalese" like your will generally is, but is meant to capture your voice, intentions and reasons for your estate planning.

The benefits

I want to share seven key benefits to preparing a Letter of Wishes:

1. Guides the distribution of personal property. You might own a number of items of sentimental value such as artwork, a collection, furniture, jewellery and the like. While your will may say something general about personal property, it makes the most sense to share in a LOW your intentions about who should inherit specific items. When my parents pass away, we all know that my sister will inherit the grand piano – and everyone is good with that.

2. Detail your funeral and burial wishes. Your will generally doesn't deal with the issue of funeral and burial or cremation instructions. In a LOW you can provide your preferences regarding the type of service you'd like, music to be played, scripture or poetry to be read, burial or cremation wishes, and more. You can also advise of any prepaid funeral arrangements, or prearranged services, and who to call about this once you're gone.

3. Provides guidance to trustees and guardians. Your will typically has boilerplate language around the powers of trustees. Trustees most often have discretion to make distributions to, or for the benefit of, beneficiaries. You can help trustees exercise that discretion by sharing your wishes around the types and timing of costs that should be paid for (for education, business investment, health care, etc.). You can also leave your wishes to guardians about educational preferences, religious or cultural upbringing, family connections to maintain, and more, when looking after minor children.

4. Clarifies your intentions. While your will is necessarily written in legal terms, the LOW can allow you to speak in your own words and voice to explain the "why" behind your decisions in your will. Perhaps you've treated certain heirs differently in your will; the LOW allows you to explain your thinking. This can eliminate confusion and help to minimize hurt feelings and the chance that litigation takes place around your estate.

5. Maintains privacy for the family. Wills in Canada that go through the probate process become public documents. Anyone can see what you've done with your assets in your will. A LOW, however, is not a public document

and is only seen by your executor, trustees, beneficiaries and guardians. So, you can feel comfortable sharing sensitive details, explanations, family background or other details knowing that these won't become part of the public record.

6. Increases flexibility without formality. I once knew a woman who changed her mind about every six months around who should receive what in her will. Her lawyer's head would be spinning as she constantly made changes to her will. A LOW can be revised as often as you like, without having to make formal changes to your will each time. This provides great flexibility for your estate planning.

7. Humanizes your estate plan. Wills can feel very cold and transactional. Your LOW will allow your voice and values to shine through. You can leave personal messages of encouragement and love, and share what's most important to you. A LOW can serve as a moral compass for your executors, trustees, guardians and beneficiaries as everyone tries to honour your wishes when you're gone.

Next time we'll dig deeper into what you might include in a Letter of Wishes, and I'll share some additional thoughts to keep in mind as you prepare the document.

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