MAY 2025 ■ VOLUME 24 NO. 2

STEP Inside

NEWSLETTER OF THE SOCIETY OF TRUST AND ESTATE PRACTITIONERS (**CANADA**)

STEP Inside

STEP Inside is published three times a year by the Society of Trust and Estate Practitioners (Canada), an organization of individuals from the legal, accounting, corporate trust and related professions who are involved, at a specialist level, with the planning, creation, management of and accounting for trusts and estates, executorship administration and related taxes. STEP Canada has branches in the Atlantic region, Montreal, Ottawa, Toronto, Winnipeg, Edmonton, Calgary, and Vancouver; and three chapters in London and Southwestern Ontario, the Okanagan Valley, and Saskatchewan.

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ISSN: 14960737

Planning in Turbulent Times

We all know the Chinese saying about interesting times. It will *not* be quoted here.

However, times like these do reinforce why it's considered a curse. Say what you will about building resilience and character, sometimes stagnation and boredom are all we seek (no comment on whether any of us have enough character yet). And so the theme for this issue was born—and you can all appreciate why.

But these times also remind us why STEP continues to be so important. Education, updates, and the support of our peers are always crucial, but they are even more essential in times of change and uncertainty. On the education front, this issue includes a summary of all the great education opportunities that STEP Canada has to offer. Be sure to pass them along to someone you know who might benefit from them. We also recognize the achievements and academic excellence of trust and estate practitioners seeking to improve themselves and the services they provide to their clients.

Our ability to weather these turbulent times begins with our ability to manage ourselves. We are grateful for the advice that Erin Peters offers in this regard. If you have time to read only one article in this issue, you should make it this one—her suggestions for reducing stress are practical and can be implemented in anyone's life, no matter how busy you might be. As we know (and sometimes forget), you can't give if you've got nothing left yourself. Hopefully, along with building character and resilience, these times remind us to take our own mental health seriously, and to do what we can to take at least one positive step toward better self-care this year. Incremental improvement is better than none. Erin also reminds us that we can implement only so many changes at once in our lives, and that our friends and colleagues can be the best antidote to the turbulence we cannot hope to control. Your fellow STEP members know exactly what you're going through, because they're going through it too, so reach out and connect. Get together, get it off your chest, and be reminded that you're not alone.

Of course we're all concerned about changes abroad these days. Sébastien Desmarais and Benjamin Nichols provide us with an overview of the significant tax reforms in play in the United Kingdom, including the proposed abolition of the "non-dom" tax regime and changes to their estate tax regime. These reforms will have a major impact on clients who are currently residing in the United Kingdom but not planning to remain there permanently, as well as those who were originally UK residents but are currently resident in Canada. Troy McEachren and Darren Lund assist practitioners with a dive into flexible and adaptable estate planning in times of change and uncertainty, including a look at recent North American political change and its impact on LGTBQ+ rights and how these changes impact planning for LGTBQ+ clients and their families.

Several of the In the Headlines articles in this issue provide updates on changing and evolving laws related to wills and incapacity across Canada, including the ever-changing area of digital wills—because iPad wills are now a thing, folks! Speaking of iPad wills, the STEP Public Policy Committee recently formed a subcommittee to evaluate new developments in the area of digital/electronic wills and other estate-planning documents. For example, as discussed by Amanda Doucette, Saskatchewan is aiming to pass legislation regarding wills signed digitally through platforms like DocuSign, with potential implications for estate planning and probate processes. British Columbia has already implemented similar legislation, providing a reference point for comparison. However, there remain questions and concerns regarding jurisdictional issues, safeguarding against the exploitation of vulnerable clients, and ensuring proper testing for capacity and absence of undue influence or suspicious circumstances. If you are interested in contributing to this STEP project, please email us at news@step.ca.

We look forward to seeing many of you in June at the STEP Canada Conference. And in the meantime ... nope, not that saying! But here's a little Shakespeare, offered as a prayer for better times ahead: "That time offer'd sorrow; This, general joy." (*Henry VIII*, Act 4, Scene 1).

Education at STEP Canada

The Next Generation of TEPs

STEP Canada's educational programs are more than just career development opportunities; they are an investment in the future of our profession. As a STEP member, you understand the value of specialized knowledge in trusts and estates. By identifying and encouraging skilled colleagues to enroll in STEP Canada's programs, you help strengthen your team, elevate industry standards, and enhance the recognition of the trust and estate practitioner (TEP) designation.

NEW CERTIFICATE PROGRAM FOR CURRENT AND ASPIRING TEPS

Stay tuned for the launch of the Investment Basics for Fiduciaries certificate this fall. Designed for trust and estate professionals, this program provides essential investment knowledge for administering estates and trusts and managing the financial affairs of incapable persons.

By linking investment fundamentals to real-world fiduciary decision making, this course equips professionals to navigate their responsibilities with confidence and compliance.

- ✓ **Fiduciary roles and responsibilities:** Master the key duties of executors, trustees, and decision-makers for incapable clients.
- ✓ **Investment fundamentals:** Develop a foundation in investment principles tailored to fiduciary management.
- ✓ **Legal and tax considerations:** Understand the legal and tax framework that guides fiduciary investment decisions.
- ✓ **Real-world case studies:** Apply your knowledge to practical fiduciary scenarios for informed, responsible decision making.

Connect with education@step.ca if you're interested in learning more.

STEP Canada Diploma in Trusts & Estates: The Leading Pathway to TEP

The **STEP Canada Diploma** is the most common pathway to the TEP designation, with nearly 90 percent of new TEPs choosing this route. Designed to provide a well-rounded foundation, the program balances self-paced study with engaging live-virtual sessions, case studies, and networking opportunities.

This program is ideal for professionals looking to deepen their knowledge in:

- ✓ trust law
- ✓ taxation of trusts
- ✓ estate administration
- ✓ trust and estate planning

Recognizing Experienced Professionals: The STEP Canada Essay Program

For seasoned professionals with at least five years of industry experience and a recognized qualification, the STEP Canada Essay Program provides an alternative route to earning the TEP designation.

If you work alongside experienced practitioners who could qualify, consider recommending this pathway to them. The program is designed for those who already demonstrate significant expertise in the field and are ready to showcase their knowledge through a series of academic papers.

Supporting All Facets of the Industry: Excellence in Estate and Trust Administration

The **Certificate in Estate & Trust Administration (CETA) program** serves as the cornerstone of success for roles within the field of estate and trust administration. If you know individuals who would benefit from foundational education in estate administration, encourage them to explore this program which was designed for estate administrators, trust officers, and paralegal professionals.[1]

Who in Your Professional Network Is Ready for the Next Step?

As a member of STEP Canada, you've seen first-hand the impact of our education programs. Now, we encourage you to help identify the next generation of trust and estate professionals. By guiding talented individuals toward the right educational pathway, you contribute to the strength of your team and the broader profession. Connect with us at education@step.ca for more information.

1 Note that the CETA program is not an educational pathway to the TEP.

Award Winners 2024

Award for Academic Excellence—Law of Trusts

Ana Wagner

Ana is an associate lawyer at Laredo Law, specializing in estate planning, wills, and trusts. She is committed to providing clear, strategic guidance to ensure that her clients' wishes are protected and their legacies secured. Ana earned her law degree from Osgoode Hall Law School in 2023 and was called to the Ontario bar in 2024. Ana is an associate member of STEP Canada and is working toward her trust and estate practitioner (TEP) designation. She is actively involved in the Canadian Hispanic Bar Association, the Ontario Bar Association, the Estate Planning Council of Canada, and the Junior Trusts and Estate Lawyers group.

Award for Academic Excellence—Taxation of Trusts & Estates

Jonah Friedman

Jonah Friedman is a manager in the Finance group at Kilmer Van Nostrand Co. Limited, where he focuses on finance, tax, investment management, and investment reporting. Prior to joining Kilmer, Jonah was part of the Family Office group at a Toronto-based professional services firm, providing investment advisory, tax-planning, and estate strategy services to high net worth clients. He previously worked at Ernst & Young in Private Client Services, supporting private enterprises with accounting and audit matters. Jonah is a chartered professional accountant (CPA, CA) and a certified financial planner (CFP). He holds a bachelor of commerce from Queen's University.

Award for Academic Excellence—Wills, Trust & Estate Administration

Rehaaz Boodhoo

Rehaaz has over 20 years of wealth management experience with a commitment to excellence, while remaining true to his core values of honesty, integrity, and professionalism. As a portfolio manager and financial planner with RBC Dominion Securities, he customizes advanced wealth plans for high net worth families, businesses, and philanthropic organizations.

In addition to holding a master of business administration (MBA), Rehaaz is also a chartered financial analyst (CFA), a CFP, a TEP, and a chartered life underwriter (CLU).

Award for Academic Excellence—Trust & Estate Planning

Francesca Loreto

Francesca is a senior tax manager at Baker Tilly Canada, where she helps clients with all aspects of income tax, succession planning, corporate reorganizations, and trust and estate planning. Francesca graduated from the University of Waterloo with a bachelor of accounting and financial management and a master of accounting. Francesca obtained her CPA designation in 2018 and completed the In-Depth Tax Program with CPA Canada in 2021. She is also a member of STEP and obtained her TEP designation in 2024.

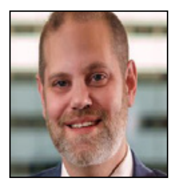
The Gerald Owen Book Prize

Michael F. Sims

Michael graduated from the University of Alberta with a bachelor of commerce and the University of Saskatchewan with a master of professional accounting. He subsequently earned his CPA designation while working in public practice at an international accounting firm. Today, he is a senior rulings officer with the Income Tax Rulings Directorate of the Canada Revenue Agency, where he focuses on resource taxation. He is also a facilitator in the CPA Canada In-Depth Tax Program.

The STEP Canada Scholars Award for Best Essay

Michael von Keitz



Michael von Keitz is a senior associate lawyer at O'Sullivan Estate Lawyers in Toronto, where he delivers a range of services in trusts and estates to high net worth and ultra-high net worth individuals, primarily with cross-border or multijurisdictional aspects to their needs. Michael has practised exclusively in the area of trusts and estates since 2019 and has written and presented on topics in this area to a variety of audiences. Michael earned a juris doctor from the Bora Laskin Faculty of Law at Lakehead University, and both an honours bachelor of science and a master of science from the University of Guelph. Michael is a member in good standing of STEP, the Law Society of Ontario (LSO), the Ontario Bar Association, the Canadian Bar Association, and the Toronto Lawyers' Association. In addition, Michael was the founding president of the Estate Planning Council of York Region, is a former director and secretary of the York Region Law Association, and has served as a tutor for the trusts and estates section of the LSO's solicitor licensing examination.

CETA Program Award

Shenyan Fan

Shenyan started her career at a boutique accounting firm in Toronto, and subsequently earned her US CPA designation. She has been in public practice for almost 10 years and has vast experience in dealing with different types of corporate and personal accounting and tax engagements. She specializes in investment holding companies and medical professionals. She is currently enrolled in the STEP Canada diploma program to continue her education.

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Practitioner Self-Care and Mental Health: Advising in Times of Change

© ERIN PETERS, RTC, LLM

Erin Peters is a psychotherapist, former lawyer, and mother based in Vancouver. Erin runs a private psychotherapy practice for adult clients, and also provides training to support the well-being of lawyers and those who live and work with them. One of her areas of interest is neurodivergence, including ADHD and giftedness. You can find out more about Erin at www.erinpeterscounselling.com.

I was asked to write this article for the STEP Canada membership, at a time when trusts and estates professionals are experiencing unprecedented and significant legislative and policy changes. In this context, I understand that professional practice is rapidly changing, and that there remains much unpredictability and uncertainty about the nature and impact of those changes. Humans are wired to be wary of uncertainty, and changes on this scale can indeed contribute to increased stress and anxiety for individual practitioners. In times like these, the need for self-care and mental health supports comes to the fore.

When I began thinking about what I could contribute, I faced two threshold questions: Where to start? and How to choose? If, like me, you have recently Googled something like "how to manage stress" or "self-care for mental health," you have seen hundreds if not thousands of current posts, all with good ideas on managing stress and supporting mental well-being in turbulent times. As I began, I found myself overwhelmed at the prospect of not only ingesting the wealth of advice, but also then presenting it in a way that would be meaningful to you. I imagine you as a busy professional, perhaps glancing at this article in a scant moment while you clear your desk between meetings, as you prioritize the urgent communiqués and consign the slightly-less-urgent ones to the growing "for later" pile. I am aware of how already squeezed your time is, so I want today to offer you something meaningful.

How to choose? Mental health professionals, like me, are similarly facing the question of how to sustain our own well-being in challenging times. (Demand for mental health services has never been higher.) So, I thought that I would share my own process—a process that, as I write this article, is helping me maintain some ground as life changes unpredictably each day. As I do this, I rely on one of my core survival strategies: less is more. For me, it is healthier to identify and practise just a few ideas at a time, rather than read yet ignore the long, well-meaning lists of many more. Here are six ideas from my personal playbook.

1. Limit Media Consumption

I confess, I resisted starting with this topic, because it seems too simplistic, and it is already ubiquitous when you click through to those Google results I mentioned. Yet, it works. In the midst of the economic uncertainties that we in Canada are now experiencing, I was consulting my financial advisor, Chris. During our conversation, he talked me down from my own worries, reminding me that much of our modern digital media is a business that is designed to make revenue through advertising. Advertising revenue is a function of clicks, and clicks are encouraged by keeping my attention. Here is the attention economy, and the burgeoning field of neuroeconomics[1]—an interdisciplinary field combining neuroscience, psychology, and economics to study and inform how each of us make choices. Among other factors, dopamine and adrenaline are involved to encourage our brains to keep clicking.

While I am not an expert in neuroeconomics, I do understand two related concepts that prove true for me. First, fear sells. I am strangely attracted to and can easily get sucked into a negative news spiral, one where my attention hones in on each half-point drop in the market. Second, the more I click, the more I worry. Each half-point decrease in the market corresponds with a half-point increase in anxiety about my financial future. Chris wisely advised me to stop reading the mainstream news so often. (My family concurred.) And, although there is uncertainty in my financial future, I am less preoccupied with and worried by it as I go through my days. The ubiquitous advice works: to reduce worry, limit media consumption.

1 Society for Neuroeconomics (https://neuroeconomics.org).

2. Let Go of What You Cannot Control

This is a piece of advice that has resonated over the ages through various philosophies. (Recall the Buddhist principle of non-attachment,[2] or theology's serenity prayer.) It encourages us to get very real about our lives, and to distinguish those aspects over which we have no immediate control from those over which we have some agency. Rather than suggesting that we simply give up, or capitulate entirely to the winds of fate, it encourages us to make an intentional, even strategic, choice to let go of certain matters for the moment. I think of this as the operation of *force majeure* on a personal level. Although the idea itself is straightforward, implementation requires two things: first, an honest assessment of the facts (rather than the aspirations) of our lives; and second, an acceptance of that reality and, with it, our limitations. This requires courage, and will likely involve some emotional resistance. We may be frustrated, or feel disempowered, or feel saddened by the present reality of not being able to do everything right now in the way that we had hoped and planned.

In my case, this year's changes in the North American political climate have impacted my professional and personal plans. I spent the months of January and February in incredulous disbelief, then moved to anger, then resigned myself to accepting what could no longer be, at least for the moment. Letting go of those plans, moving through my emotions, and stepping toward acceptance has brought relief—I am no longer constantly ruminating. Having processed my emotions and accepted what I cannot control, space has opened up for me to focus more clearly on the things over which I do have some choice and agency, right now. In and of itself, engaging proactively with what I *can* do brings a positive momentum. Doing *something* feels much better than doing nothing.

3. Reconsider Priorities

In today's professional world, everything seems urgent, all the time. Productivity gurus would have us believe that, given the right set of tools, we can accomplish everything well, quickly, and efficiently. The advance of technology has exaggerated this cultural drive for better, faster, more. And insidiously, much of the self-care discourse is aimed at enabling us to continue to work at pace, by offering tools to reduce our personal sense of being overwhelmed and anxious, to stay calm in the face of escalating demands. By contrast, research is increasingly demonstrating that faster is not always better: here is the speed-versus-accuracy tradeoff, whereby when we go faster, we tend to make more errors—errors that create more work, and more stress.

In my view, I am one person who both lives and works. My capacity to meet the demands of my days is finite, and is naturally apportioned between the demands of my personal life and those of my professional life. Metaphorically, I do not have one bucket for professional energy, another for personal energy—there is only one bucket. There are times when my capacity is seriously stretched (such as when I am facing extra demands in my work schedule) or when I am confronted with extra stress (such as when I am dealing with the illness of a loved one). At these times, it becomes even more important to stop and reconsider my priorities and their urgency. It is an act of self-care to honestly reflect and ask whether all the things *really* need to be done right now. And to consider and perhaps even accept the impacts of slowing down. (See Daniel Pink[3] for an interesting read on questions of rhythm, timing, and success.)

2 Tara Brach, "The Three Steps of Letting Go, with Tara Brach," *YouTube*, June 15, 2022 (https://www.youtube.com/watch?v=j5f859Muqwl).

3 Daniel H. Pink, When: *The Scientific Secrets of Perfect Timing* (https://www.danpink.com/books/when/).

4. Adjust Your Perspective

When I speak with my clients, we often talk about how our vision would change if we were to exchange eyeglasses. We talk about the differences between long-distance lenses (enabling us to see clearly into the distance) and reading lenses (focusing our gaze on what is right before us), and sometimes we imagine borrowing a wide-angle lens from the photography kit (enabling us to see the periphery). I believe that, as a self-care practice, it can be constructive to try on different lenses, to intentionally change our perspectives on our experience. Two things happen when we do that. First, as we lift our gaze from the minutiae of our immediate projects, we can better see the bigger picture of our own life. From this perspective, we can appreciate the arc of time, and recognize more fully both the positive and the challenging aspects of life over time. Second, using the wide-angle lens, we can again see our colleagues, friends, and neighbours, and we are reminded that everyone carries their own burdens. We recognize our shared humanity, and in so doing, we lay the groundwork for compassion,[4] one of modern psychology's key ingredients for well-being.

Spending time with others almost automatically invites us to adjust our perspective, because it naturally shifts the focus from our own ruminations and worries as we listen attentively and generously to another. I know this first-hand. Recently, during one politically difficult day, I observed that, in practising my professional listening skills as a psychotherapist, my focus was far away from my own worries. Engaging with, deeply listening to, and seeking to understand another person's experience—this is a space that is both nurturing for the client and reciprocally meaningful for me. My client shared that, for him, doing acts of service for others (even the smallest of gestures) takes the focus off himself, improves his sense of connection with others, and feeds optimism. He speaks to an evidence-based phenomenon.[5]

5. Shift Your Body to Shift Your Mind

A more immediate and pragmatic strategy for well-being, particularly for those of us professionals who spend the vast proportion of our time using our minds, is to shift our bodies in order to shift our minds out of rumination or anxiety. Exercise has long been advised as an antidote to stress. In recent years, there has been an explosion of research into the mind–body connection, including ideas from polyvagal theory,[6] which highlights the immediate and beneficial results of engaging and moving the body to alleviate past and current stress from the nervous system. Somatic techniques range from body awareness, so that we better understand what our body is doing, to breathing exercises, to simple movement, to progressive muscle relaxation, to vocal exercises including singing, to sensory stimulation such as cold/hot exposure or the 5-4-3-2-1 technique.[7] Dr. Megan Anna Neff, an expert I prefer, offers a short list of effective techniques.[8]

I encourage you to experiment and discover what works for you. For me, the trifecta includes disengaging from my current screen, walking/moving gently, and being outside. Science is proving what humans have known forever—nature heals.[9] I'll report in August when my garden will (hopefully) display the results of my stress-reducing efforts there!

6. Talk with Someone

Although it seems obvious, I am surprised by how much of our experience we keep private, by how many questions or burdens we carry on our own. In my view, the best self-care engages others, and invites us to talk with someone, especially during times of change. Mental health professionals, and those of us providing talk therapy, have seen a surge in demand in recent years. In the years post-COVID (with, for many, its enforced isolation), we have also witnessed a steady return to in-person sessions. Talking helps. Don't hesitate to reach out to trusted colleagues, friends, family, or a professional. I am grateful that I can do this, every day.

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UK Autumn Budget 2024: Impact on Individuals and Considerations for Canadian Advisors

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Background

The United Kingdom's autumn 2024 budget ("Budget 2024") was the most anticipated budget in recent memory. The Labour Party's first in over a decade, and the first ever from a female chancellor, the budget was preceded by warnings of "difficult decisions" and the unveiling of a £22 billion "black hole" in the nation's finances. The trailing of pre-announced changes, including the abolition of the non-domicile ("non-dom") tax regime and the introduction of value-added tax (VAT) on private school fees, further fuelled rumours about the scope of tax increases. Exceeding these expectations, Budget 2024 contained tax increases amounting to £41 billion by 2029-30. By far the largest individual tax measure is the increase in National Insurance contributions (NICs) paid by employers. However, there are significant changes to personal taxes as well. The key measures impacting individuals and their relevance in the Canadian context are summarized below.

"Non-Dom" Reform

Foreign Income and Gains

On or after April 6, 2025, non-UK-domiciled individuals residing in the United Kingdom will no longer be able to claim the "remittance basis"[1] of taxation and "protected trusts" will lose their protected status.

The concept of domicile is being abandoned in favour of a residence-based regime. The period during which foreign income and gains will be exempt from tax for taxpayers resident in the United Kingdom under the new regime (the "FIG regime") is four years. This is significantly shorter than the 15 years available under the old remittance basis rules.

Individuals who elect to be taxed under the FIG regime will not pay UK tax on any foreign income and gains arising in their first four tax years of UK residence, provided that there has been a period of at least 10 consecutive years of non-UK tax residence. This remains the case where these funds are brought to the United Kingdom.

All UK-resident individuals who do not elect into or are otherwise not eligible for the FIG regime will start paying income tax and capital gains tax on their worldwide income (including foreign income and gains) on an arising basis.

As with the previous remittance basis of taxation, individuals electing into the FIG regime will lose their income tax personal allowance and their capital gains tax exemption amount (discussed below) for the tax year. Accordingly, a calculation will be required to determine whether claiming the FIG regime will achieve a more favourable tax outcome.

> The Labour Party's first in over a decade, and the first ever from a female chancellor, the budget was preceded by warnings of "difficult decisions" and the unveiling of a £22 billion "black hole" in the nation's finances.

While most foreign income and gains will be eligible for protection under the FIG regime, notable exceptions include third-party foreign employment income, offshore life insurance policies, and some investment bonds.

Foreign income and gains that arose in protected non-resident trusts on or before April 5, 2025 will not be subject to UK tax unless distributions are paid

1 The remittance basis of taxation, which has been available to non-UK-domiciled individuals who are resident in the United Kingdom, allows individuals to pay only UK tax on the income and gains that they bring to the country. If the remittance basis is claimed, individuals lose their tax-free allowances and pay an annual charge based on the number of years that they have been resident in the United Kingdom.

to UK residents who do not qualify for the FIG regime. Distributions paid to beneficiaries who have elected to be taxed under the FIG regime will not pay UK tax on those distributions during the four-year period.

The temporary repatriation facility (the "TRF") provides a planning opportunity for current remittance basis taxpayers with unremitted foreign wealth. Under the TRF, individuals have a three-year window in which to bring to the United Kingdom previously unremitted foreign income and gains that arose in a tax year that was subject to the remittance basis. These "designated amounts" will be taxed at preferential rates of 12 percent for each of the 2025-26 and 2026-27 tax years and 15 percent for the 2027-28 tax year. Note that any foreign wealth brought to the United Kingdom may end up becoming subject to UK inheritance tax (discussed below).

The obvious beneficiaries of the FIG regime will be short-term arrivals to the United Kingdom, who will be able to shelter their foreign income and gains from UK tax for up to four years—provided that a period of at least 10 consecutive years of non-UK tax residence precedes their arrival.

The brunt of the changes will be borne by current remittance basis taxpayers who have been living in the United Kingdom for more than four years. These individuals will not be eligible to elect to be taxed under the FIG regime and will need to begin paying income tax and capital gains tax on their foreign income and gains on an arising basis commencing on April 6, 2025. As discussed, the preferential tax rates available under the TRF will provide some cushioning against the impact of the transition for those individuals wishing to remain in the United Kingdom.

From a practical perspective, the shift from a domicile-based to a residence-based system may provide the opportunity to assess and plan an individual's tax status with greater certainty.

Inheritance Tax

The United Kingdom is also moving to a residence-based system for inheritance tax purposes, although domicile will remain relevant in relation to inheritance tax double taxation treaties.

Under the new inheritance tax regime, if an individual is a "long-term resident" (LTR), their worldwide estate, including any excluded property trusts (discussed below), will be brought into the UK inheritance tax net.

An individual will be considered an LTR if they have been a UK resident for at least 10 of the previous 20 tax years. Where an individual leaves the United Kingdom, they will remain an LTR for a period of 10 years, with a shortened inheritance tax "tail" where the individual was a UK resident for between 10 and 19 years. The clock is reset after 10 years of continuous non-UK residence. Advisors in the new jurisdiction should inquire as to whether the individual is an LTR. If they are, a UK inheritance tax review may be required.

The move to a residence-based system should remove the uncertainty as to whether UK inheritance tax could apply to the Canadian estate of a Canadian resident if the deceased was UK-domiciled. Advisors now need to enquire whether the individual is a LTR in order to assess whether the UK inheritance tax applies.

Trust Assets

Previously, non-UK property ("qualifying assets") held in a trust settled by a non-UK domiciled individual residing in the United Kingdom (referred to as an "excluded property trust") was excluded from inheritance tax. The establishment of an excluded property trust was a common strategy to protect an individual's foreign assets from UK inheritance tax before they became "deemed domiciled" in the United Kingdom.

Under the new regime, qualifying assets held in an excluded property trust will become subject to the relevant property regime for UK inheritance tax where the settlor is an LTR. This is the case for all excluded property trusts regardless of when the property was added (subject to special rules for deceased settlors).

The TRF (discussed above) will also be available to UK-resident settlors or individuals who receive distributions from an offshore trust during the TRF period (that is, three tax years from April 6, 2025). To qualify, the relevant individual must be a former remittance basis user, the benefit must be received during the TRF period, and the benefit must be capable of being matched to foreign income and gains that arose within the trust before April 6, 2025.

Complying with the new regime may require information about historical income and gains that may not be readily available, making it difficult or impossible to fully comply. It will be interesting to see if any administrative relief is provided in such cases.

Income Tax

The personal allowance for 2025-26 will remain at £12,570 and the higher rate threshold will remain at £50,270. The freeze on both will end on April 5, 2028, when indexation will resume.

All UK-resident taxpayers who are not eligible for the FIG regime will pay tax at the normal rates on any newly arising foreign income and gains.

Foreign income and gains arising within settlor-interest trusts (previously protected) will now be taxable to the settlor on an arising basis if they are UK-resident and do not qualify for the FIG regime (a policy that is aligned with existing rules applying to UK-domiciled settlors).

Capital Gains Tax

Capital gains tax rates have been increased from 10 percent to 18 percent for basic-rate taxpayers and from 20 percent to 24 percent for higher-rate taxpayers for dispositions occurring after October 30, 2024. The capital gains tax annual exemption amount for individuals and personal representatives will remain at £3,000 (this was halved in the previous tax year). Any unused amounts from the previous tax year may still be carried forward to the current tax year (up to a maximum exemption amount of £6,000 for any tax year).

Non-domiciled individuals who are resident in the United Kingdom but who do not qualify for the FIG regime will be subject to capital gains tax on foreign gains in the normal way. However, current and past remittance basis users can, for dispositions occurring on or after April 6, 2025, rebase a personally held foreign asset (that is, reset its cost base) for capital gains tax purposes to its market value at April 5, 2017. There are some conditions that need to be met for this to apply.

The capital gains of a non-resident trust (previously protected) will be taxable to the settlor if they are UK-resident and do not qualify for the FIG regime. Capital gains can be offset against capital losses.

Individuals who do business or own assets in the United Kingdom (often received by way of inheritance) need to consider the increases in the UK capital gains tax rates. Business Asset Disposal Relief and Investors' Relief allow some UK taxpayers to benefit from a lower capital gains tax rate (10 percent) on the disposal of certain business assets. Canadians with capital assets situated in the United Kingdom or entrepreneurs doing business in the country should seek professional tax advice from their cross-border tax advisors.

Inheritance Tax

The existing freeze on the inheritance tax nil-rate band (£325,000) and residence nil-rate band (£175,000)—available where an individual's primary residence is being passed down to the individual's direct descendants—will be extended for two years to April 5, 2030. The nil-rate band is available for individuals and provides an exemption. Unused reliefs (exemptions) are transferable between spouses.

Importantly, unused pension funds and death benefits payable from a pension (which were previously exempt from inheritance tax) will now be brought into an individual's estate for inheritance tax purposes from April 6, 2027. Canadian with a UK pension may need to review the new rules and seek professional advice from cross-border tax and estate practitioners as part of their estate plan, to assess whether the Canada-UK tax treaty provides any tax relief.

Conclusion

The UK tax changes will significantly impact families with UK connections. Canadian advisors should ask individuals about British citizenship, prior UK residency, and about UK assets that may need to be accommodated in their estate planning.

Estate Planning in Turbulent Times

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The serene image of a well-ordered estate, passed seamlessly to loved ones, is increasingly being challenged by a confluence of economic and political uncertainties. In Canada, estate planning has moved from a relatively predictable process to a complex and often anxiety-inducing endeavour. The world's oscillation between left-leaning and right-leaning policies, coupled with global political realignments, has introduced uncertainties in taxation, trade, and economic stability. Notably, Canada's proposed increase in the capital gains inclusion rate, the election of President Trump in the United States, and escalating tariff threats have complicated the landscape for Canadians seeking to manage and transfer their wealth effectively.

Domestic Political Shifts and Taxation Uncertainties

The most recent and impactful factor that disrupted Canadian estate planning was the federal government's proposed increase in the capital gains inclusion rate. In April 2024, the federal government announced a significant change to its capital gains taxation policy, proposing to increase the inclusion rate from one-half to two-thirds for individuals with annual capital gains exceeding $250,000, as well as for corporations and most trusts. The stated aim of this measure was to narrow the tax advantage enjoyed by capital gains over other forms of income, thereby enhancing tax fairness. The additional revenue was earmarked for funding affordable housing projects and reducing the national deficit, with projections estimating an increase of $19.4 billion over five years.

However, the proposed change faced significant opposition from various sectors, including businesses and economists, who argued that it could deter investment and hinder economic growth. The political climate further complicated the situation; the measure failed to pass through Parliament due to political stalemates, and former Prime Minister Justin Trudeau's announcement of his intention to step down led to the suspension of Parliament until March 24, 2025. Despite a lack of official legislative approval, the Canada Revenue Agency began collecting the increased tax from June 25, 2024, based on Department of Finance guidelines, creating confusion and uncertainty among taxpayers.

In response to mounting legal challenges and political uncertainty, the government announced on January 31, 2025 that implementation of the increased rate would be deferred to January 1, 2026. The Department of Finance stated that the deferral was meant to provide clarity to Canadians as they approached tax season and to allow for the introduction of new exemptions designed to minimize tax burdens for middle-class Canadians. Although Prime Minister Mark Carney ultimately announced that the government would not be proceeding with the increase to the capital gains inclusion rate following his successful bid to become leader of the Liberal Party, the uncertainty and anxiety created by this process remains fresh in the minds of estate planners.

For many Canadians, particularly business owners, farmers, and those holding significant investment portfolios, the proposed change in the capital gains inclusion rate represented a substantial increase in potential tax liabilities. The rush to realize capital gains before the change took effect created a bottleneck in professional services, with accountants, lawyers, and financial advisors overwhelmed by client demands.

The uncertainty stemmed not only from the immediate scramble but also from the long-term implications. Estate planning is inherently a forward-looking exercise. Some strategies designed years ago, based on the previous tax environment, suddenly became less effective or even counterproductive. This necessitated a comprehensive review for many clients, and in some cases, a complete overhaul of existing estate plans. The fact that such measures were ultimately withdrawn after engaging in such an exercise resulted in sunk costs and potentially new costs to revert to prior planning. There is also no guarantee that such measures will not be re-introduced In the future.

Furthermore, the timing of the announcement, coming relatively late in the fiscal year, has left little room for strategic planning. Many individuals were faced with rushed decisions, potentially leading to suboptimal outcomes. This situation underscores the need for greater transparency and predictability in tax policy, particularly as it relates to long-term financial planning.

The election of Mark Carney as Prime Minister of Canada marks a significant turning point in the nation's political landscape—one that brings both potential opportunity and growing uncertainty. Known primarily for his background as Governor of the Bank of Canada and later the Bank of England, Carney enters politics with economic credentials but minimal direct political experience. While his reputation as a global financial expert is hard to dispute, his transition from central banker to head of government introduces several layers of unpredictability for Canadians. While Mark Carney brings certain intellectual credentials to the role of Prime Minister, his untested political instincts and potential for policy shifts inject a significant degree of uncertainty into Canada's future. This uncertainty is compounded by the fact that, with the election resulting in a minority government, it may be unstable at a time when stability is appealing to many. For Canadians seeking clarity, stability, and a consistent policy path, Carney's tenure could prove both transformative—and unsettling.

Political Pendulum Swings and Policy Uncertainty

Beyond specific tax changes, the broader Canadian political landscape is marked by increasing volatility. The traditional left–right political dichotomy, while still present, is becoming more fluid, with shifting voter demographics and evolving policy priorities.

The rise of populist movements and the potential for a shift toward more conservative fiscal policies creates an environment of uncertainty for estate planners. While the government that proposed the capital gains inclusion rate increase paused its implementation, a future government could reinstate the increase or remove it, or introduce further unforeseen changes to fiscal legislation.

This political instability calls for a more flexible and adaptable approach to estate planning. Strategies must be designed to withstand potential policy shifts, ensuring that they remain effective regardless of the prevailing political climate. These strategies might include diversifying assets, using more flexible estate-planning tools, and maintaining a close watch on political developments.

The relationship between federal and provincial governments adds a further layer of complexity. Provincial tax policies, which can significantly impact estate planning, are subject to change based on provincial elections and policy priorities. As a result, estate planners need to be well versed in both federal and provincial tax laws and to consider the potential for interprovincial tax arbitrage.

Trade Tensions and Economic Uncertainty

The global political landscape has also experienced significant shifts, with many countries moving from left-leaning to right-leaning governments. This trend has influenced international trade policies, regulatory environments, and economic alliances, all of which have implications for estate planning in Canada. The election of President Trump in the United States, for instance, marked a substantial shift in US domestic and foreign policy, introducing another significant source of uncertainty for Canadian estate planning, particularly for those with cross-border assets or business interests.

Trump's previous administration was characterized by protectionist trade policies, including tariffs and renegotiated trade agreements. A return to these policies is having profound implications for Canadian businesses and investors, impacting asset values and tax liabilities.

The imposition of tariffs by the United States has strained the economic relationship between Canada and its southern neighbour. In March 2025, President Trump announced new tariffs targeting Canadian goods, prompting strong reactions from Canadians, including boycotts of US products and services. Industries such as construction, manufacturing, and retail have been negatively impacted as a result, leading to concerns about job security and personal finances among Canadians. This economic uncertainty complicates estate planning, as individuals and businesses face challenges in asset valuation and future financial projections.

The ongoing threat of tariffs and trade disputes creates a climate of unpredictability, making it difficult to accurately assess the long-term value of assets. This uncertainty extends to real estate, stocks, and other investments, impacting estate valuations and potential tax liabilities.

For Canadians with US assets, the potential for changes to US tax laws under a Trump administration adds further complexity. The US tax code, which is already intricate, could undergo significant revision, impacting the tax treatment of cross-border assets and income.

Increased trade tensions can affect the entire Canadian economy. A slowdown in international trade could lead to a decline in asset values and increased economic uncertainty, further complicating estate planning.

The Impact of Political Shifts on LGBTQ+ Families in North America

In recent years, North America has witnessed a political shift in several regions, moving from progressive, left-leaning policies to more conservative, right-leaning governance. This shift has had profound implications for LGBTQ+ families, affecting their legal rights, social acceptance, and overall well-being.

One of the most immediate concerns for LGBTQ+ families is the rollback of protections and rights. In parts of the United States and Canada, conservative leaders have introduced or supported policies that restrict discussions of LGBTQ+ topics in schools, limit gender-affirming care, and challenge parental rights for same-sex couples and transgender parents. These policies not only threaten legal recognition but also create uncertainty for families who previously relied on progressive protections.

The Houses of Representatives in two US states, Idaho and North Dakota, have passed resolutions calling on the United States Supreme Court to reconsider its decision in *Obergefell v. Hodges* (576 US 644 (2015)), which established national protection for same-sex marriage in the United States. While both resolutions failed to pass the Senates in those states, it is far from clear that efforts to roll back legal protections are going away. In jurisdictions that do not include common-law spouses in their intestacy rules, the ability to marry has direct implications on inheritance rights. Efforts to roll back same-sex marriage have not to date appeared in Canada, but given the close connections of so many Canadians families to the United States, it is important for planners in Canada to be aware of developments south of the border.

Additionally, there has been an increase in anti-LGBTQ+ rhetoric, contributing to a rise in discrimination and hostility. This can impact children of LGBTQ+ parents, who may face bullying or exclusion in educational and social settings. Families are also experiencing heightened concerns about safety and acceptance in their communities, with some choosing to relocate to more progressive areas.

Despite these challenges, LGBTQ+ families continue to advocate for their rights through activism, legal battles, and community support networks. While political landscapes may shift, the resilience of LGBTQ+ individuals and allies ensures that progress is not easily reversed. The ongoing fight for equality highlights the importance of continued visibility, legal protections, and inclusive policies to safeguard the well-being of LGBTQ+ families across North America.

Strategies for Navigating Turbulent Times

Given the current environment, individuals and businesses engaged in estate planning should consider the following strategies:

- **Stay informed and be flexible:** Regularly monitor legislative developments and be prepared to adjust estate plans accordingly. Flexibility allows for timely responses to new laws or regulations.
- **Diversify assets:** Diversification can mitigate risks associated with asset-specific volatility. Spreading investments across various asset classes and geographic regions may provide a buffer against economic uncertainties.
- **Engage professional advisors:** Tax professionals, legal advisors, and financial planners who are well versed in both domestic and international regulations can provide tailored strategies that align with current laws and anticipate potential changes.
- **Consider the timing of transactions:** Evaluate the timing of asset dispositions in light of potential tax changes. For instance, realizing gains before the implementation of higher tax rates could result in significant tax savings.
- **Review and update estate plans regularly:** Given the fluid political and economic landscape, regular reviews of estate plans will ensure that they remain aligned with the current environment and personal objectives.

Conclusion

The current landscape of Canadian estate planning is characterized by unprecedented uncertainty. The announced capital gains inclusion rate increase, political volatility, and international trade tensions have created a complex and challenging environment.

However, by adopting a proactive and adaptable approach, Canadians can navigate these turbulent times and ensure that their estate plans remain effective. Regular review, professional advice, and a focus on flexibility are essential for success.

The key takeaway is that estate planning is no longer a static process but a dynamic and ongoing endeavour. In an era of constant change, adaptability is the most valuable asset. While the future remains uncertain, careful planning and proactive management can help Canadians achieve their estate-planning goals and secure their legacies for future generations.

IN THE HEADLINES

BRITISH COLUMBIA

CONSTRAINTS ON COMMITTEES' POWERS: MARKLAND ESTATE V. BENZ

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The British Columbia Supreme Court decision in *Markland Estate v. Benz*[1] analyzes the power of a court-appointed committee in the context of decisions that have the power to alter the ultimate distribution of a patient's assets.

Ms. Winnie Markland became the sole owner of real property ("the property") located in Burnaby, British Columbia upon the passing of her husband. Ms. Markland was survived by two children and eight grandchildren. She was predeceased by one of her children, Ms. Hilda Spence, which loss and the estate litigation that followed prompted her to put her own estate in order.

Two years after Ms. Spence died, Ms. Markland placed her granddaughter Ms. Nadine Benz on title to the property as a joint tenant and signed a letter stating that the transfer to Ms. Benz was intended to be a gift. A year later, in 2009, Ms. Markland met with a lawyer regarding her estate plan. She informed him that she and Ms. Benz owned the property as joint tenants, and he explained to her the then recent decision in *Pecore v. Pecore*.[2] The lawyer prepared a deed of gift confirming that Ms. Benz was to receive legal and beneficial interest in the property upon Ms. Markland's death. Ms. Markland signed that deed of gift in 2010, but Ms. Benz did not see it until 2019.

During the intervening nine years, Ms. Benz, who did not understand the meaning of joint tenancy, continued to treat the property as belonging to Ms. Markland and later confirmed that if the property had been sold during Ms. Markland's lifetime, Ms. Benz would have expected the proceeds to go to Ms. Markland. Also during that time, Ms. Markland had two strokes and became more susceptible to influence.[3] After her strokes, she signed a document purporting to place conditions on her gift to Ms. Benz, which document the court found was signed under the influence of her son, Mr. Donovan Markland, and was of no legal force and effect.[4] In 2019, Ms. Markland was declared incompetent by court order and Mr. Markland was named as her committee without condition or bond.

In 2021, Mr. Markland filed to sever the joint tenancy of ownership of the property, which would cause Ms. Markland's interest in the property to pass equally to the residual beneficiaries of her estate, her grandchildren. Ms. Markland died in 2022 at the age of 105. This presented the question of whether Mr. Markland, as committee, was entitled to sever the joint tenancy on Ms. Markland's behalf.

As committee, Mr. Markland was bestowed with all the rights, privileges, and powers with regard to Ms. Markland's estate that Ms. Markland

1 *Markland Estate v. Benz*, 2024 BCSC 2167 ("*Markland Estate*").
2 *Pecore v. Pecore*, 2007 SCC 17.
3 *Markland Estate*, at paragraph 20.
4 bid., at paragraph 39.

would have had if she had been "of sound and disposing mind,"[5] and the court accepted that Ms. Markland retained the right to sever the joint tenancy while she was competent.[6] However, Mr. Markland's power was constrained by the statutory requirement that he exercise that power for the benefit of Ms. Markland and her family,[7] and by the common-law duty he owed to Ms. Markland to exercise his power as a reasonable and prudent businessperson would.[8]

Mr. Markland argued that the severance was prudent because it would result in the equal division of Ms. Markland's interest in the property among her grandchildren, which was her wish because, he said, she regretted the gift to Ms. Benz. The court cited *O'Hagan* as authority that a committee may "carry out the expressed but unfulfilled intentions of the patient if the transaction or transfer is for the benefit of the patient and the patient's family."[9] However, it was not evident that Ms. Markland wanted to benefit her grandchildren equally. She did not express to Mr. Markland a desire to change her will, she did not attempt to revoke the deed of gift, and she took steps to achieve an unequal division of her assets on her death (for example, by designating a single grandchild as beneficiary of the proceeds of her registered retirement income fund).

The court concluded that "the severance of the joint tenancy had nothing to do with prudent management of Ms. Markland's estate and everything to do with changing who would inherit her interest in the Property. Donovan Markland as committee was not entitled to interfere with Ms. Markland's subjective intent to gift her interest in the Property to Ms. Benz"[10], demonstrating the manner in which statutory requirements can constrain a committee and highlighting the importance of honouring a patient's Intentions regarding the ultimate distribution of their assets.

NO SIGNATURE, NO EVIDENCE, NO WILL: SMITH ESTATE (RE)

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Since the coming into force of Alberta's *Wills and Succession Act* (SA 2010, c. W-12.2) (WSA), the Court of King's Bench of Alberta has rendered several judgments interpreting the variation and rectification provisions found in WSA sections 37 to 39. In the latest of these cases, Smith Estate (Re) (2025 ABKB 4), the court was tasked with determining which among a series of documents purporting to be the wills of the testator were valid wills.

On February 2, 1993, Glenn William Vincent Smith ("the testator") executed a will prepared by a lawyer ("the 1993 will"). There was no dispute as to the validity of the 1993 will. In his later years, the testator executed several documents each purporting to be wills (collectively, "the purported wills"). Most of the purported wills were prepared with the assistance of the testator's long-time friend and business associate, Lynette Braun, who prepared the documents from handwritten notes given to her by the testator.

Several of the purported wills were signed by the testator and by Ms. Braun as sole subscribing witness. Other purported wills were copies of an earlier purported will, marked up with handwritten changes to specific gifts and distribution of the residue of the estate. Some of these marked-up purported wills were dated, but others were not. Other purported wills were not signed, or contained handwritten revisions but no new signature.

In 2009, the testator divorced his wife, Margaret. After his separation, he had several relationships with different women, many of were named in one or more of the purported wills.

One of the testator's daughters, Angela, as one of the personal representatives of the testator's estate, brought an application to determine, among other things, whether any of the purported wills should be validated pursuant to WSA section 37, or rectified pursuant to WSA section 39 to insert the testator's signature.

The court began its analysis with a review of the 1993 will. Citing the concept of dependent relative revocation, Margaret argued that the 1993 will was never validly revoked. According to the dependent relative revocation doctrine, an old will can remain effective if a new will is not made (or if it fails for any reason), provided that there is sufficient evidence that the testator intended the revocation to be conditional upon the new will taking effect. The court rejected this

5 *Patients Property Act*, RSBC 1996, c. 349 (PPA), section 15(1).
6 *Markland Estate*, at paragraph 27.
7 PPA section 18.
8 *O'Hagan v. O'Hagan*, 2000 BCCA 79 ("*O'Hagan*"), at paragraph 23.
9 *Markland Estate*, at paragraph 34, quoting *O'Hagan*, at paragraph 24.
10 *Markland Estate*, at paragraph 38.

argument, noting that each of the purported wills included the phrase "[t]his document supersedes all previous documents and wills" (at paragraph 8). Furthermore, in three of the purported wills, the testator explicitly stated that he did not wish to make any provision for either Margaret or Alison, his other daughter. The court ultimately concluded that if any of the purported wills effectively revoked the 1993 will, that revocation was not intended to be conditional. In other words, the testator did not intend for the 1993 will to be effective—he wished to revoke it.

The court then examined each of the purported wills in light of the formal validity requirements for making a will in Alberta. Each of the purported wills was non-compliant with the rules applicable to formal wills in at least one respect—none of them were signed by the required two witnesses, and some were not signed at all.

With respect to the requirement that a document purporting to be a will must reflect the testator's fixed and final testamentary intentions (WSA section 14), Margaret argued that the existence of multiple and varied documents purporting to be wills, as well as several unsigned wills, tended to indicate that the testator had not reached a "fixed and final" decision in relation to his estate planning, such that none of the purported wills could be valid wills. The court acknowledged that the testator had indeed made many revisions to his will, but stated that this tendency alone was not enough to negate the testator's "occasional intention to create a testamentary document" (at paragraph 27).

The court then considered whether the purported wills could be saved by application of the validation (section 37) or rectification (section 39) provisions of the WSA.

Based on the evidence of Ms. Braun, the court validated the first five purported wills (all of which were typed and signed by the testator and Ms. Braun) under WSA section 37, on the basis that there was clear and convincing evidence that each of these documents clearly outlined the testator's testamentary intentions, and were intended to serve as his will at the time they were signed.

However, the court declined to rectify the two marked-up purported wills, because they lacked a signature by the testator concurrent with the handwritten notations. The court noted that there was nothing to suggest that the testator could not have signed either of these documents at the same time as he made the handwritten notations, but the testator had not done so. The court also noted that WSA section 39(2) permits the court to rectify the omission of the testator's signature only if (1) there is clear and convincing evidence that the testator intended to sign the document and to give effect to the writing in the document as his or her will, but (2) omitted to do so as a result of pure mistake or inadvertence (at paragraph 43). There was no evidence of either. For the same reasons, the court declined to rectify the two printed but unsigned purported wills.

For Albertans wishing to make changes to their estate plan—either through new documents or revisions—the importance of the signature cannot be overstated. The decision of the court in *Smith Estate (Re)* reiterates and makes clear that the rectification provisions of the WSA are "weak" or "narrow" dispensing powers, particularly in relation to signature issues.

WILLS ON AN IPAD: THE EVOLUTION OF HOLOGRAPH WILLS IN SASKATCHEWAN

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In the world of estates, Saskatchewan is famous for the story of Cecil George Harris and his holograph will on a tractor fender. Harris was a farmer from Rosetown, Saskatchewan who got trapped under his tractor and etched his final wishes into the paint of the tractor's fender. The fender was brought to court and probated as the last will and testament of Harris. (If you are ever visiting the University of Saskatchewan College of Law, stop by the law library to see the actual fender for yourself!) Fast-forward 80+ years and a Saskatchewan court was presented with the question whether a message on an iPad was a valid testamentary document. The decision in *Haines v. Kuffner Estate* (2024 SKKB 51) opens the door to new options for what may be considered a testamentary document. The *Haines* decision, coupled with proposed legislation in the province permitting "electronic wills," suggests that some interesting times are ahead in the world of estates in Saskatchewan.

Legislative Basis

Saskatchewan is one of the provinces in Canada that permit the use of a "holograph will." To qualify as a "holograph" will, the document must be wholly in the handwriting of the testator and must be signed by the testator. These conditions are to be contrasted with the formal will requirements set out in section 7 of Saskatchewan's *Wills Act, 1996* (SS 1996, c. W-14.1), which require the will to be signed in the presence of two witnesses.

When a document does not technically meet the requirements of a holograph will or a formal will, it is possible that the document can still be accepted for probate purposes under the substantial compliance provisions found in section 37 of the Act. Section 37 provides that the court must be satisfied that the document or writing embodies

1. the testamentary intentions of a deceased; or
2. the intention of the deceased to revoke, alter, or revive a will of the deceased or the testamentary intentions of the deceased embodied in a document other than a will.

These provisions have previously been used to admit letters and other notes from a testator. In the *Haines* decision, these provisions were relied upon to admit an iPad message.

MANITOBA

Haines v. Kuffner Estate

In *Haines*, the testator sent a message on her iPad to two of her siblings entitled "My holographic will." The body of the message read as follows:

> My holographic will
>
> Rheanne Haines to be executor.
>
> House and contents to Ryan Haines.
>
> Balance of investments to be split 60% to Ryan Haines and 40% to Rheanne Haines. Rheanne to be pet guardian.
>
> May 19, 2023. Kim Kuffner

The testator was in the hospital at the time she prepared the document. She died two days after completing the message.

The court concluded that the content of the message demonstrated that the testator intended it to be a will. In addition, the fact that she typed her name and the date at the end of the document showed that she was worried about getting her affairs in order and knew she was running out of time. The document did not meet the formality requirements (because of a lack of witnesses) and also did not meet the requirements for a holograph will (because it was not in her handwriting). Despite this, the court found that the message was testamentary in nature and represented the testator's deliberate and final intentions as to the disposition of her estate. The court noted that a broad interpretation of section 37 of the Act is "responsive to the modern reality that for some people, their only means of communication is through electronic devices" (at paragraph 36).

Interaction with New Legislation for Electronic Wills in Saskatchewan

On the theme of "electronic wills," it is of note that *The Wills Amendment Act, 2023* (SS 2023, c. 45) received royal assent on May 17, 2023 and will come into force by order of the lieutenant governor in council. Amendments included in the new legislation create the concept of an "electronic will" that can be signed by electronic means such as DocuSign. The legislation still requires two witnesses, and suggests the need for some visual element when signing. However, there is currently no requirement for one of the witnesses to be a practising lawyer. Saskatchewan practitioners have been advised that further conditions will be set out in the Regulations and that the Law Society of Saskatchewan intends to issue practice directives on the topic.

British Columbia became the first Canadian jurisdiction to pass legislation regarding the electronic creation of wills and digital signatures, and other provinces are starting to consider the same. This evolution poses questions for and challenges to the estate administration system, including the ability to utilize the probate of the electronic will in one province to obtain probate in a different province that does not permit electronic wills. In addition, it goes without saying that electronic wills pose a danger to those who are vulnerable to undue influence and/or who have limited capacity.

THE STRANGE COMMON LAW OF DOMICILE, THE NEED FOR REFORM IN COMMON-LAW CANADA, AND THE MANITOBA MODEL

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According to the latest census, approximately 23 percent of Canada's population was born abroad[1] and almost one-third (31.5 percent) of all children under 15 in Canada had at least one parent born abroad.[2] In a society where immigration plays such a significant role, it can be challenging to determine the "domicile" of a testator for the purposes of estate planning or administration.

1 Statistics Canada, "Immigrants Make Up the Largest Share of the Population in over 150 Years and Continue to Shape Who We Are as Canadians," *The Daily*, October 26, 2022 (https://www150.statcan.gc.ca/n1/daily-quotidien/221026/dq221026a-eng.htm).

2 Ibid.

Traditionally, a person's domicile has been considered the "most appropriate connecting factor to establish [their] personal law" in common-law regimes.[3] Domicile has lost relevance in the context of family law; for example, "a one-year period of ordinary residence has replaced domicile as the connecting factor for divorce jurisdiction in Canada."[4] However, domicile remains one of the foundational concepts of estate law in the common-law provinces of Canada, with the law of a person's domicile determining, among other things, the essential validity of their will with respect to the succession of movable property,[5] the beneficiaries of a person's movable property in the event of intestacy, whether a person's will is revoked by marriage,[6] and the applicability of dependant's relief legislation with respect to movable property left by a person upon death.[7]

This article summarizes the key common-law rules relating to domicile. It then reviews challenges posed by the common-law doctrine whereby a person's domicile of origin revives upon abandonment of a domicile of choice ("the doctrine of revival"), and by the requirement to prove an *intention* to permanently settle in (or abandon) a jurisdiction for acquisition (or abandonment) of a domicile of choice; and highlights key provisions of *The Domicile and Habitual Residence Act* (Manitoba),[8] which address these challenges and may be a model that other common-law jurisdictions in Canada should consider adopting.

The Common Law

Key common-law rules relating to domicile were helpfully summarized by the trial and appeal courts in *Foote Estate*:

1. A "person will always have one, and only one, domicile at any point in his or her life."[9]
2. The "circumstances into which one is born (generally, parental domicile) dictate a person's first domicile, which is known as a 'domicile of origin.'"[10]
3. A person's "domicile of origin can be displaced by a 'domicile of choice.'"[11] The "acquisition of a domicile of choice involves two factors: 'the *acquisition of residence in fact* in a new place and the *intention of permanently settling there* ... in the sense of making that place [one's] principal residence indefinitely.'"[12]
4. A "domicile of choice is lost when *both the residence and the intention* which must exist for its acquisition are given up."[13]
5. A person's "domicile of origin revives when a domicile of choice is abandoned without establishing a new domicile of choice."[14]

Revival of Domicile of Origin

In its *Report on the Law of Domicile*, the Manitoba Law Reform Commission observed that the doctrine of revival "presupposes that a person who has abandoned a domicile of choice is more closely attached to the country of his or her domicile of origin than to the last domicile of choice, and here lies its defect."[15] The commission noted that the application of the doctrine could lead to "absurd results," and as an example of such absurdity cited *In Re O'Keefe*,[16] in which the deceased was found to be domiciled in Ireland even though she had visited Ireland only once in her lifetime, on a short visit with her father.

In *Montizambert Estate (Re)*,[17] Lerner J observed that the application of the doctrine of revival to the circumstances would produce an "anomalous" result, and noted that "there is no evidence to suggest that the deceased had any real connection with Quebec [her domicile of origin] after 1882, some 82 years before her death. To suggest that her personal law should be the law of a jurisdiction which the deceased left 82 years before her death is to defy common sense. While the law of domicile is sometimes, by its nature,

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3 Stephen G.A. Pitel et al., *Private International Law in Common Law Canada: Cases, Text and Materials*, 4th ed. (Toronto: Emond Montgomery, 2016), at 140.
4 Ibid., at 141.
5 See, for example, *Succession Law Reform Act* (Ontario), RSO 1990, c. S.26, section 36(2); *The Wills Act* (Manitoba), CCSM c. W150, section 41(2); and *Wills and Succession Act* (Alberta), SA 2010, c. W-12.2, section 41(3).
6 See, for example, *Davies v. Collins*, 2011 NSCA 79; and *Sato v. Sato*, 2018 BCCA 287.
7 See, for example, *Foote Estate* (Re), 2009 ABQB 654 ("*Foote Trial*"); aff'd 2011 ABCA 1 ("*Foote Appeal*").
8 *The Domicile and Habitual Residence Act* (Manitoba), CCSM c. D96 ("the Manitoba Act").
9 *Foote Appeal*, at paragraph 19.
10 *Foote Trial*, at paragraph 19.
11 *Foote Appeal*, at paragraph 20.
12 Ibid., at paragraph 22 (emphasis in original).
13 Ibid., at paragraph 26 (emphasis in original), quoting *Dicey, Morris and Collins on The Conflict of Laws*, 14th ed. (London: Sweet & Maxwell, 2006), at 151.
14 *Foote Trial*, at paragraph 78.
15 Manitoba Law Reform Commission, *Report on the Law of Domicile*, Report #53, December 1, 1982 ("MLRC report"), at paragraph 2.08 (https://manitobalawreform.ca/pubs/pdf/fullreports/53-full_report.pdf).
16 *In Re O'Keefe*, [1940] Ch. D. 124.
17 *Montizambert Estate* (Re), [1973] OJ no. 1035 ("*Montizambert*").

artificial and confusing, it ought not to be totally divorced from reality."[18]

In *Foote Trial*, Graesser J concluded that *Montizambert* indicates that where the doctrine of revival "produces what is, essentially, an absurd result, then a common-law judge has a residual authority to instead conclude that a person has retained their last domicile of choice. An absurd result would be, for example, where the revived domicile of origin had absolutely no relevance to a person's life, home, and activities."[19] Grasser J's reference to "residual authority" has received some criticism[20] and was rejected by the court in *Vanston v. Scott*.[21] In *Vanston*, Dufour J, noting that he was bound by precedent, held that—although the result may appear "arbitrary or odd"—the deceased had abandoned his domicile of choice in Saskatchewan without establishing a new domicile of choice and, accordingly, his domicile of origin (which Dufour J believed to be Alberta) revived.[22] However, because none of the parties had led evidence relating to the deceased's domicile of origin, the appeal court directed a new trial on the matter.[23]

As the Manitoba Law Reform Commission noted, the "doctrine of the revival of the domicile of origin may have been justifiable in Imperialist England when much of the common law pertaining to domicile was developed. That it should be applied to a country such as our own when much of our population is born outside Canada is unsuitable."[24] Following the recommendations of the commission, the Manitoba Act abolished the common-law rules with respect to domicile, including the doctrine of revival.[25] Under the Manitoba Act, a person's domicile also continues until they acquire a new one.[26] These provisions, as the commission argued, result "generally in connecting a person to a jurisdiction to which s(he) is more closely tied."[27] The rule has also been legislatively abolished through similar legislation in New Zealand[28] and Australia.[29] Similar legislation should also be considered by other common-law jurisdictions in Canada, to provide greater certainty in succession planning to individuals who may, by virtue of parental domicile or circumstances of birth, have a foreign "domicile of origin" but who have become permanent residents or citizens of Canada and established their principal home or residence in one of the provinces or territories of Canada.

Acquisition (or Abandonment) of a Domicile of Choice

The "acquisition of residence in fact in a new place" and the "intention of permanently settling there" are the two factors required to establish domicile of choice. Acquisition of residence in a jurisdiction is a matter of objective proof; however, proof of intention poses serious evidentiary challenges in estate administration.

> According to the latest census, approximately 23 percent of Canada's population was born abroad and almost one-third (31.5 percent) of all children under 15 in Canada had at least one parent born abroad.

In the MLRC report, the commission noted that the "emphasis on the intention to reside indefinitely [or permanently] ... may result in lengthy civil litigation, especially where an estate is involved and the court must conjecture as to the intentions of the decedent; ... [and] may result in uncertainty given that it appears possible for a man voluntarily to spend 36 or 37 years of his life in a country and still not acquire a domicile of choice."[30] A review of the case law indicates that the concerns of the commission remain valid:

1. Courts have been called upon to read the deceased's "intention" into a limited volume of relevant

18 Ibid., at paragraph 32.
19 *Foote Trial*, at paragraph 97.
20 See, for example, Gerald B. Robertson, "The Law of Domicile: Re Foote Estate" (2010) 48:1 *Alberta Law Review* 189-94, at 192-93.
21 *Vanston v. Scott*, 2014 SKQB 64 ("*Vanston*").
22 Ibid., at paragraph 44.
23 *Scott v. Vanston*, 2016 SKCA 75.
24 MLRC report, at paragraph 2.09.
25 Manitoba Act, section 3.
26 Manitoba Act, section 6.
27 MLRC report, at paragraph 2.09.
28 *Domicile Act 1976* (New Zealand), sections 8 and 11.
29 See, for example, *Domicile Act 1982* (Australia), section 7; *Domicile Act 1979* (New South Wales), section 6; and *Domicile Act 1980* (Tasmania), section 6.
30 MLRC report, at paragraph 2.13. The commission referred to the cases of *Ramsay v. Liverpool Royal Infirmary*, [1930] AC 588 (HL) and *Winans v. Attorney General*, [1904] AC 287 (HL) with respect to these timelines.

documentation and have reached seemingly inconsistent results. For example, in *Montizambert*, the court suggested that the correspondence of the deceased with the Royal Trust Company and with the English tax authorities stating that she considered herself "domiciled in Canada" had "an ulterior motive—to avoid tax levies by the English taxing authorities." Accordingly, her declarations with respect to domicile were "suspect" and "not necessarily conclusive."[31] On the other hand, in *Sato v. Sato*,[32] the court relied upon a decades-old tax filing in which the deceased had indicated that he intended to "retire in Canada" to hold that, even though the deceased had resided in the Cayman Islands and then in Luxembourg for more than 13 years before his marriage, he remained domiciled in British Columbia at the time of his marriage.

2. Lack of relevant evidence with respect to the deceased's intention has also led to seemingly odd results. For example, in *Rehman v. Hamid*,[33] the deceased had been born in Lahore, British India (now Pakistan), had resided in England for 50 years, and had moved back to Pakistan about two years before her death and before making the impugned will; the court was not satisfied, despite the duration of the deceased's residence in England, that she had ever acquired a domicile of choice in England.

Pursuant to the Manitoba Act, a person's domicile "is in the state and a subdivision thereof in which that person's principal home is situated and in which that person intends to reside,"[34] and "*unless a contrary intention is shown*, a person is presumed to intend to reside indefinitely in the state and subdivision thereof in which that person's principal home is situated."[35] Although the Manitoba Act leaves scope for proof of a contrary intention, it creates a default objective test—the location of a person's principal home—for the determination of domicile.

If similar legislation were adopted by other common-law jurisdictions in Canada, it would likely result in more practical administration of the estates of immigrants to Canada who build their economic lives (and principal homes) in a particular province but may not have given much thought to documenting whether their residence in that place was intended to be permanent, indefinite, or otherwise.

WHEN A BENEFICIARY "STAYS AT HOME"

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The recent decision of the Ontario Superior Court in *Sheffield (Estate) v. Sheffield* (2024 ONSC 3627) highlights an all-too-common issue in estates: how to deal with the family home when one of the beneficiaries continues residing in it and is uncooperative. The case provides a good overview of the options available to the estate trustee, as well as a reminder of the importance of clear testamentary instructions from the testator.

The Facts

The last will of Gary Sheffield provided a right to his widow, Donna, to continue to live on the property, and instructed that, upon Donna's death, the property was to be given to Gary's children, Katherine and Bradley, in equal shares per capita.

After Gary's death, Donna and Bradley both resided at the property. Donna and Bradley refused to allow Katherine to enter onto the property to conduct necessary repairs and maintenance. After Donna's death, Bradley continued to reside at the property yet failed to keep the property insured or conduct any necessary repairs or maintenance, leaving the property to deteriorate.

Katherine had no intention of owning the property jointly with her brother. As estate trustee of Gary's estate, she brought an application seeking an order requiring Bradley to vacate the property and restraining him from removing estate assets from the property, and giving Katherine the ability to sell the property, per the discretion provided to her as estate trustee to liquidate all assets of the estate.

The Issue

The issue before the court was whether the will conferred a right to possession

31 *Montizambert*, at paragraphs 8 and 9.
32 *Sato v. Sato*, 2018 BCCA 287.
33 *Rehman v. Hamid*, [2019] EWHC 3692 (Ch).
34 Manitoba Act, section 8(1).
35 Manitoba Act, section 8(2) (emphasis added).The *Uniform Domicile Act*, adopted by the Uniform Law Conference of Canada in 1961, also applies a "principal home" test to the determination of domicile unless a contrary intention appears.

Lawyers drafting wills should anticipate potential conflicts when dealing with the family home if one beneficiary still resides in the home.

and occupancy of the property. In other words, could the family home be sold by the estate, or did title have to be transferred to Katherine and Bradley?

The Court's Decision

The court reiterated that the "golden rule in interpreting wills is to give effect to the testator's intention as ascertained from the language which he has used" (at paragraph 17). The court reviewed the testamentary instructions of the testator and concluded that they failed to prescribe how the gift of the property was to be achieved. The will also failed to prescribe how title to the property would pass on the testator's death.

As a matter of law, Katherine became the registered owner of the property in her capacity as estate trustee. Katherine took the position that, as estate trustee, she was entitled to sell all assets of the estate, including the property, and distribute the proceeds of sale to the beneficiaries, per the terms of the will.

The court held that in the context of the will as a whole, as well as the statutory scheme providing for the administration of estates and the transfer of title from a deceased person to the personal representative(s) of the deceased's estate, the will should be read as permitting, but not mandating, the transfer of the property from the estate to the beneficiaries (at paragraph 27). As a result, the estate trustee has the discretion to decide how best to give effect to the gift of the property and is empowered to sell the property, subject to the fiduciary duties owed by the estate trustee to the estate and all beneficiaries. The court found that the will did not confer a possessory right on Bradley, but that even if it did, following Donna's death, Bradley and Katherine would have been owners as tenants in common of the property, which would have given Katherine a right to bring an application for partition and sale of the property. Either way, the court found that the property could be sold.

Key Takeaways

1. An estate trustee is required to act in the best interests of the estate at all times. The estate trustee should consider the beneficiaries' interests and wishes but is not required to accommodate their expectations beyond the instructions in the will.
2. Lawyers drafting wills should anticipate potential conflicts when dealing with the family home if one beneficiary still resides in the home. The will should include specific instructions concerning the gift of property, and it should provide powers to the estate trustee to ensure the proper and efficient administration of the estate.
3. Although this was not addressed in the decision, communication between the testator and the beneficiaries may provide a better indication of the testator's testamentary wishes. This is especially true when one beneficiary is already benefiting from an asset of the estate.

TESTAMENTARY INTENT IN THE DIGITAL AGE: QUEBEC PROBATES A WILL MADE ON AN IPAD

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The integration of technology into the landscape of estate planning has introduced new methods for drafting wills, including the use of digital devices such as iPads. A recent case, *Succession de Ahmed*,[1] sheds light on the legal considerations surrounding such practices in Quebec.

Case Overview

In *Succession de Ahmed*, the Quebec Superior Court addressed the validity of a will drafted and signed on an iPad without traditional paper documentation. The deceased, Mr. Ahmed, had prepared his will using a note-taking application on his iPad. The witnesses attested that the testator signed the will in their physical presence and that they signed immediately thereafter, in each other's presence and in the presence of the testator, by using a stylus on the iPad. The testator and both witnesses initialled each of the three first pages of the will and signed the last page. Upon the testator's passing, the will's legitimacy was contested by family members, prompting judicial scrutiny.

The court's analysis focused on Quebec's legal requirements for valid wills, particularly in the context of

1 *Succession de Ahmed*, 2025 QCCS 71.

electronic documents. Quebec law recognizes three types of wills: notarial wills, holograph wills, and wills made in the presence of witnesses. Each type has specific formalities that must be observed to ensure validity.

Legal Requirements for Wills in Quebec

1. **Notarial will:** Prepared by a notary in the presence of the testator and a witness, this type of will is executed following a formal procedure and is not subject to probate after the testator's death.
2. **Holograph will:** Entirely handwritten and signed by the testator, a holograph will does not require witnesses. However, it must be probated after the testator's death to confirm its validity.
3. **Will made in the presence of witnesses:** This type of will is typed or written by the testator or a third person and signed in the presence of two witnesses who also sign the document. Like a holograph will, a will made in the presence of witnesses requires probate after the testator's death.

Application to Digital Wills

The court in *Succession de Ahmed* deliberated on whether a will drafted and signed electronically on an iPad could be considered valid under existing Quebec law. The court noted that Quebec law does not specify the medium required for a will made in the presence of witnesses. The choice of a technology-based medium was therefore not excluded by the *Civil Code of Québec*.[2] Indeed, the court noted that Quebec had adopted legislation,[3] which was interpreted by the Supreme Court of Canada,[4] providing that legal documents have the same value whether they are paper or technology-based documents.

> Quebec law recognizes three types of wills: notarial wills, holograph wills, and wills made in the presence of witnesses. Each type has specific formalities that must be observed to ensure validity.

Quebec legislation also recognizes that an electronic signature is a valid signature on the condition that "the integrity of the documents is ensured and the link between the signature and the documents was established at the time of signing and has since been maintained."[5]

The court found that the integrity of the electronic will was preserved because the signature was executed on a pixelized unalterable image and the will was never altered or modified. The court further found that the will was solely exported from the "Goodnotes" iPad application into PDF format for transmission through a secure portal to the notary after the testator passed away.

What is not clear from the judgment is what was produced in court for probate. Was the iPad itself produced and deposited in the court file? Was a copy of the will printed and deposited? Under the CCQ[6] and the *Code of Civil Procedure*,[7] the original of the will must be deposited with the court for examination, which has been held to be a "condition *sine qua non*" for probate.[8] If the original was not produced and deposited, did the court reconstitute the will pursuant to article 774 CCQ?

Implications of the Decision

While there remain some procedural questions that do not appear to have been addressed by the court, the decision in *Succession de Ahmed* still signifies a pivotal moment in Quebec's law of succession, reflecting the judiciary's willingness to adapt to contemporary methods of communication and documentation. By validating a will created on an electronic device, the court has set a precedent that could influence future cases in which non-traditional formats are used to express testamentary intentions.

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2 *Civil Code of Québec*, CQLR c. CCQ-1991 (CCQ).
3 *Act to establish a legal framework for information technology*, CQLR c. C-1.1.
4 In *Dell Computer Corp. c. Union des consommateurs*, 2007 SCC 34, at paragraph 95.
5 Section 39 of the *Act to establish a legal framework for information technology*.
6 Article 774 CCQ.
7 Articles 460 and 461 of the *Code of Civil Procedure*, CQLR c. C-25.01.
8 *Saint-Laurent, Re*, 2005 CanLII 32309 (QCCS).

THE TIDES OF CHANGE IN NOVA SCOTIA? POTENTIAL PROGRESS FOR POWERS OF ATTORNEY AND ADULT GUARDIANSHIP

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The Nova Scotia Legislature recently introduced Bill 21, known as the *Justice Administration Amendment (2025) Act*,[1] to modernize certain legislation in Nova Scotia and add safeguards for adults requiring assistance with decision making. The bill aims to amend four pieces of legislation to improve the application process for personal representatives with respect to adult guardianship; update language surrounding the province's unified family court; ensure the automatic repeal of legislation not proclaimed within 10 years; and modernize and clarify the roles and responsibilities of powers of attorney.

First, the bill proposes amendments to the *Adult Capacity and Decision-Making Act* (SNS 2017, c. 4) (ACDMA), aimed at improving the application process for personal representatives, also known as substitute decision-makers. The amendments allow the Supreme Court of Nova Scotia to dispense with or reduce the requirement for a bond, provided that certain factors are considered. These factors include the representative's authority over the adult's finances, their relationship, the value and source of the adult's property, and any other relevant matters as prescribed by regulations or considered by the court. Additionally, the governor in council is granted the authority to make regulations regarding the waiving or lowering of bonds. The amendments also require that documents filed with the court, other than a notice, pleading, or draft order, must now be proved by affidavit; a notice of application must name the Public Trustee as a respondent; and a copy of the notice must be mailed on or before the day the application is due to be served.

These changes are designed to streamline the process and ensure greater clarity and efficiency in the handling of applications by personal representatives while also maintaining safeguards. Practitioners handling ACDMA applications will likely welcome the proposed changes, particularly those related to bonding, as this has long been a challenging factor for clients seeking to assist incapacitated family members who are not of significant means themselves.

> The bill aims to amend four pieces of legislation to improve the application process for personal representatives with respect to adult guardianship; update language surrounding the province's unified family court; ensure the automatic repeal of legislation not proclaimed within 10 years; and modernize and clarify the roles and responsibilities of powers of attorney.

Second, the bill proposes amendments to repeal the *Family Court Act* (RSNS 1989, c. 159, section 1), aligning with the past restructuring of family law in the province, to reflect that family law matters are now heard in the unified family court. These changes aim to streamline the legal framework and eliminate outdated provisions. Additionally, the amendments will clarify the composition of the judicial council and the authority of the provincial court judge by providing that references to the Family Court and its judges in statutes, regulations, and documents are all to be construed as references to the Supreme Court of Nova Scotia (Family Division).

Next, the bill proposes amendments to the *Interpretation Act* (RSNS 1989, c. 235) to require the chief legislative counsel to provide an annual list of acts or provisions not yet in force to the attorney general, including acts that were assented to at least nine years before that time. The attorney general must then table this list in the Assembly. Any act or provision on the list will be repealed by the end of that year unless it comes into force, the Assembly resolves to keep it, or the governor in council orders a later repeal date. The governor in council can order the repeal of an act or provision to be delayed for up to three years

1 Nova Scotia Legislature, Bill 21, *Justice Administration Amendment* (2025) Act, 1st Sess., 65th Leg.; royal assent March 26, 2025 (https://nslegislature.ca/legc/bills/65th_1st/3rd_read/b021.htm).

following the tabling of the attorney general's report. The attorney general must publish a list of repealed acts or provisions annually. This amendment aims to improve government efficiency and generally seeks to limit the number of dormant proposed statutes and amendments, currently a common occurrence in Nova Scotia.

Finally, the bill proposes amendments to the *Powers of Attorney Act* (RSNS 1989, c. 352), aimed at modernizing and clarifying the roles and responsibilities of powers of attorney ("attorney"). The bill allows for remote witnessing of a power of attorney; flexibility of an attorney to delegate all or part of the attorney's authority in relation to investment matters to a qualified investment specialist, including a mutual fund manager; and compensation for an attorney and reimbursement of an attorney's expenses. The amendments also prohibit attorneys from mixing their finances with the donor's (with exceptions), terminate a spouse's power of attorney under certain conditions, and mandate resignation notice requirements.

Of note, proposed clause 13 of the bill would allow "a person authorized by the regulations" to witness a donor signing or acknowledging a signature on a power of attorney without being in the presence of the donor, which would allow for virtual witnessing and execution of powers of attorney, subject to the text of the regulations (which practitioners in Nova Scotia have eagerly awaited since 2022).

Further, clause 16 would provide for the termination of a power of attorney in the event of a named spouse ceasing to cohabitate with the donor, or the initiation of divorce proceedings. The proposed language would extend to common-law spouses, a rarity in Nova Scotia legislation, and would effectively provide for a partial revocation or amendment in the event of a relationship change.

All of these changes aim to make the power of attorney process more accessible and efficient, ensuring greater convenience and security for all parties while safeguarding the donor's interests and enhancing the overall effectiveness and reliability of the arrangements. The amendments further allow changes to beneficiary designations, set accounting rules upon termination or death, and provide liability protections. Additionally, they clarify that a power of attorney is not terminated by the donor's bankruptcy, allow court orders for incapacity, and grant additional regulation-making authority to the governor in council.

CHAIR'S MESSAGE

RACHEL BLUMENFELD, LLB, TEP

Will I see you June 16 and 17 at the 27th STEP National Conference this June? I certainly hope so!

Kudos to the 2025 National Conference Planning Committee—the conference sold out in record time! But don't fret, you can still be part of the action. Registration for online on-demand viewing starts on Monday, June 23. Don't miss out on this opportunity to experience this year's fantastic program and to earn valuable CPD from the comfort of your own home or office. The conference program offers unparalleled technical content delivered by an exceptional roster of speakers, as well as many opportunities for members to network, tour the exhibit hall, and celebrate the achievements of top-scoring students and other award winners. The Monday night interactive cocktail party will give friends and colleagues the chance to mix and mingle at different hors d'oeuvres and drink stations while enjoying performances by local artists, before venturing off to their independent dinner plans. Whether you attend the conference online or in person, you'll receive excellent value for outstanding content and learning opportunities for all.

I would particularly like to thank the many firms and organizations that are sponsoring the STEP National Conference. This support is essential to the success of the event, helping keep conference registration fees low while delivering great value to delegates. Please take a moment to learn about these generous firms and organizations through the conference website or, if you're attending in person, by visiting their booths in the exhibit hall and reading the materials included in your delegate bag. And thank you too for the sponsorship of local branch and chapter events—we are truly grateful for the support!

As always with the May issue of *STEP Inside*, we are proud to highlight the top-scoring students and a list of all the CETA, essay program, and diploma program graduates. STEP Canada has now seen more than 1,000 practitioners successfully complete the diploma program in trusts and estates. Congratulations to all on your notable accomplishments—it is wonderful to know that there are so many future leaders in this group who will, in time, guide STEP Canada in supporting trust and estate practitioners in their pursuit of excellence.

In February, all branch and chapter chairs, deputy chairs, program officers, and sponsorship officers attended a 2025-26 programming meeting. Members of STEP Canada can look forward to an exciting year of local seminars and networking opportunities. Designing programming for branches and chapters requires a significant amount of volunteer hours from branch and chapter executives and officers, who dedicate their time and effort to ensure that programming options and topics are timely and deliver excellent technical content. Remember, the more you engage, the more you will reap the benefits of STEP membership.

STEP Canada's biannual full-day course for winter 2025, *Advising Executors from Death Certificate to Clearance Certificate,* finished its cross-country tour on May 8 in Montreal. The course was very well received by delegates, so much so that we are considering repurposing the content to make it more widely available. Watch for more on that later this year from my successor.

Many thanks to our Tax Technical Committee for their diligent work in keeping us up to date on trust reporting requirements and penalty relief on T3 Schedule 15.

Our Education Committee is working on numerous changes to our education programs as it continues to oversee ongoing updates and improvements to the content and delivery formats. You will soon see advancements to maintain program integrity in a rapidly evolving technological landscape, while continuing to enhance the student learning experience.

On February 25-26, the 5th STEP Global Congress took place in Rome, Italy. Thought leaders, industry experts, policy-makers, and innovators from around the world engaged in dynamic dialogue about the critical issues shaping our industry. Canada was well represented on various panels and in the general delegation discussing such topics as the next generation of wealth holders, the fight against economic crime, and the debate over the implementation, feasibility, and potential impact of a global wealth tax.

Our 2025-26 membership renewal campaign began on March 1. It looks to be another successful renewal campaign as STEP Canada continues to add value, support, innovative networking opportunities, and educational resources for our members, with no increase in annual membership fees.

Entries for the 2025 STEP Private Client Awards (PCAs) were open until April 11. Finalists will be announced on June 20, and winners will be announced at the awards ceremony on September 18 at the London Hilton on Park Lane. I hope to see many Canadian winners!

This June, we are adding a new branch to STEP Canada. We are very pleased to announce that the Saskatchewan chapter will officially become a branch, following approval of the chapter's business plan by the STEP worldwide board in February. Congratulations to the Saskatchewan executive and chair Amanda Doucette on this achievement!

At the STEP Canada annual general meeting on June 12, my two-year term as national chair will come to an end. The experience, like all my experiences with STEP, has been very rewarding and enjoyable. It has been my privilege to work with so many dedicated and talented volunteers, whose selfless efforts bring immense value to the STEP community on local, regional, national, and global platforms. Throughout my tenure, I have received incredible support from the national executives, the STEP Canada staff led by Janis Armstrong and Michael Dodick, board members, national committee chairs, my Aird & Berlis colleagues, and, of course, my family. Thank you all!

There are others on the STEP Canada board whose terms are coming to an end in June. On behalf of the Executive Committee, I wish to thank directors at large Kenneth Keung, Ruth Spetz, and Paul Taylor; branch chairs Michelle Coleman, Ian Lebane, Mariska Loeppky, Carol Sadler, and Laura West; and chapter chairs Amanda Doucette and Jennifer Eshleman. I know many of you have plans to move into other roles to continue supporting STEP—we are grateful for your renewed contributions to the STEP community. Finally, to Chris Ireland, our outgoing past chair, I offer thanks your service on the national Executive Committee for the past 12 years, and for your friendship. Your dedication to each of the roles you have embraced, helping to guide STEP Canada to today's success, is evidence of your selfless leadership and commitment. Thank you, on behalf of every member of STEP Canada.

Annual meetings of the branches and chapters will take place in May, and, as mentioned earlier, the STEP Canada AGM will be held June 12. These meetings will confirm the successors of the individuals just noted. Also at the AGM, the chair of STEP Saskatchewan will officially be appointed to the board. Congratulations!

In closing, I would like to acknowledge all the committees and individuals who continue to work tirelessly on numerous important initiatives for STEP Canada and its members, from the chapters and branches to the national committees, as well as those serving on STEP worldwide committees. Your efforts to improve the value of our organization to its members and their practices, as well as to the trust and estate industry more broadly, are greatly appreciated.

Finally, I would like to thank the members of the Executive Committee, Richard Niedermayer, Brian Cohen, Aileen Battye, Corina Weigl, and Chris Ireland—your support throughout my term as chair has contributed significantly to my experience.