



eNews – May 11, 2021 STEP Canada Public Policy Committee

RE: Conflict of Laws in Estate Planning – Member Resource Chart

During the development of the recent Conflict of Laws in Estate Planning & Administration seminar that was broadcasted to delegates across the country as part of all eleven 2021 Q1 & Q2 Branch/Chapter Bundles, an extremely valuable resource chart was assembled.

Our thanks to the seminar moderators: **Rhonda Johnson**, LLB, TEP, Edmonton: Dentons Canada LLP; and **Harmanjit Mavi**, JD, MBA, TEP, Winnipeg: MLT Aikins LLP; who undertook this mammoth task, and to the jurisdictional contributors from across the country:

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Members can review answers to the questions listed below by logging onto their My STEP account on www.step.ca and clicking on the Resource Chart link in the Resource section. Moving forward, the Public Policy Committee will monitor jurisdictional law to ensure the chart is kept up to date.

1. Does marriage revoke a Will in your jurisdiction? What about a common-law relationship?
2. What impact does divorce have on a gift to a spouse pursuant to a Will in your jurisdiction? A beneficiary designation in favour of a divorced spouse in your jurisdiction?
3. Does your jurisdiction have any anti-ademption legislation and, if it does, to what extent and what categories of substituted property could the beneficiary of an deemed gift claim?
4. Does your jurisdiction have any anti-lapse legislation and, in what circumstances, would a gift payable to a beneficiary who predeceased the testator pass to the predeceased beneficiary's next-of-kin? Does anti-lapse legislation apply only to specific gifts or also to residual gifts in your jurisdiction?
5. Does your jurisdiction permit multiple wills and, if yes, what are the requirements therefor?

6. Are agreements for executor or trustee compensation valid in your jurisdiction and, if yes, are there any constraints on permissible compensation?
7. Does your jurisdiction permit a pour-over will?
8. Who has standing to bring a wills variation or dependant's relief claim in your jurisdiction and in what circumstances? In the absence of a Will, can a dependant's relief claim be made in your jurisdiction to provide a dependant a share greater than he or she would inherit in case of intestacy?
9. What proportion of a deceased's estate would a surviving spouse or common-law partner inherit in case of intestacy?
 - a) If the deceased left no children;
 - b) If the deceased left children, but they were also children of the surviving spouse or common-law partner; and
 - c) If the deceased left children, but they were not children of the surviving spouse or common-law partner?
10. Are there any other unique aspects to the succession laws in your jurisdiction of which practitioners elsewhere should be aware?

Our thanks to all who provided input.

Public Policy Committee
STEP Canada

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STEP Canada, founded in 1998, has over 3,000 members with branches in the following cities and regions: Atlantic, Montreal, Ottawa, Toronto, Winnipeg, Calgary, Edmonton, Vancouver and chapters in Okanagan Valley, Saskatchewan, and Southwestern Ontario. STEP is a multi-disciplinary organization with the most experienced and senior practitioners in the field, including: lawyers, accountants, financial planners, insurance advisors and trust professionals. They provide domestic and international advice on trust and estates, including planning, administration and related taxes.

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