VOLUME TWO, #1 MARCH 2009

PERSPECTIVES ON BUSINESS, INVESTMENT & ESTATE PLANNING

the Capital Partner

Protecting Capital, Preserving Dreams, Creating Legacies

Why Hold Your TFSA With an Insurance Company?

AS OF JANUARY 2, every Canadian over 18 years can contribute up to $5,000 annually to a Tax Free Savings Account.

This new savings plan provides Canadians with a vehicle for growing savings in a tax free environment. It also allows for tax free withdrawals - unlike your RRSPs, where withdrawals are ultimately forced and taxed like income.

Like your RRSPs, these accounts can be held at most financial institutions. But, there are advantages to setting up this account with an insurance company which you may not be aware.

TFSAs were not named in recent legislation which protects retirement assets from creditors in the event of a bankruptcy (see below article). So, if your account is held with a financial institution other than an insurance company, your funds may not receive protection from creditors.

Holding your funds with an insurer provides these benefits:

- **Potential Creditor Protection** Creditors and trustees may be prohibited from liquidating these assets in the event of an insolvency (ask a lawyer).
- **Competitive Interest Rates**
- **Guarantees** on interest savings accounts & equity investments

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RRSPs Now Exempt From Creditors... or Are They?

On November 27, 2008, the B.C. Legislature passed the *Economic Incentive Stabilization Statutes Amendment Act*.

This legislation follows the passing of the federal government's Bill C-55, which bestows "exempt" status to RRSPs, RRIFs, and DPSPs, and like pension plans, protects retirement assets from seizure by creditors.

Previously, only funds held with insurance companies received similar protection from creditors.

Investors should be aware however, there will be circumstances where the funds will not be exempted. Specifically, exemptions do not apply to:

(a) property contributed to a registered plan after or within 12 months before the date on which the debt being enforced came due,

(b) property that has been or is being paid out of a plan,

(c) an enforcement process that is being effected in support of the enforcement of a maintenance order as defined in the Family Maintenance Enforcement Act, (e.g. alimony payments) or

(d) an enforcement process initiated against a registered plan be-

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TAKE THE SMALL BIZ TAX QUIZ

Keeping up with business and estate planning taxes is... a tough business. Take this quiz and see how your results compare with survey results from Mackenzie Financial.

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RULE OF LAW

Kelowna Lawyer, **Stanley Rule** reviews **Viberg** vs. **Viberg** - a recent case concluded in the BC Supreme Court dealing with the estate of a family that didn't plan ahead

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BANKING CRISIS DOESN'T HAVE HIM STUMPFED

Respected President & CEO of **Well's Fargo Bank, John Stumpf,** appeared before the House Financial Services Committee on February 11, 2009. We've included his comments here. You may be surprised by what he has to say about the state of banking down south.

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IF YOU WILL, PLEASE...

If you don't have one, read this.

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GORDO'S CAPITAL COMMENT

The View From the Sycamore Tree

Iure naturae aequum est neminem cum alterius detrimento et iniuria fieri locupletiorem.

"According to the law of nature it is only fair that no one should become richer through damages and injuries suffered by another."
Roman Civil Code

Government bail outs on Wall Street won't restore confidence in our financial system.

Neither will turning every investment banker or Wall Street executive into a scapegoat (known as "banksters" in the 1930s).

The system has suffered from greed, cheap cash, low interest rates and false assurances for too long. Mortgages of questionable terms were sold by countless brokers to parties unable or unwilling to meet payment terms.

These mortgages were then packaged, sold in global markets, guaranteed by institutions which never believed defaults would be a problem and rubber stamped by teams of analysts, lawyers and accountants.

John Kennedy once said, "Victory has a thousand fathers, but defeat is an orphan." Failure and defeat in this instance, is a United Nations Refugee Camp.

There's no shortage of culpability so government bailouts alone won't suffice. Nor will assessing blame or witch hunts.

The greed that gave rise to this meltdown is old. Some 2,000 years ago, a Roman tax collector named **Zaccheus** was given to ill gotten gains. He had gouged countless subprime tax payers and padded his own purse. He climbed a sycamore tree, caught some inspiration and saw the need to make things right (see Luke 19).

Not surprisingly the remedy has not changed.

Disgorgement is a legal remedy whereby payment of illegitimate gains are returned to affected parties by wrong-doers. In other words, complicit parties are legally obligated to return their share of a corrupted system.

It's a civil remedy, not a criminal one. No one gets handcuffed. No names are dragged through the headlines. Reputations stay in tact.

Such a remedy would account for the excesses of the past without being punitive. It could exempt wrong doers from criminal prosecution and legacies like those afforded to **Kenneth Lay**, **Bernie Madoff** and the growing list of disgraced CEOs.

Disgorgement would still demonstrate the long term futility of negligent business practices. We might avoid teaching our kids, "Crime Doesn't Pay... nearly as well as Wall Street."

This remedy would permit continued good faith business activity. Shareholders could once again sleep at night knowing corporate America had not usurped the fruit of investor's capital.

Every party who was complicit in this mess and failed in their fiduciary duty needs to make amends.

And, with all of the spending on infrastructure, surely some of it can be allotted for planting a few more sycamore trees. trees. Otherwise, criminal and class action law suits will devour the GNP for years. ❍

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Business Owners, Executives, Professionals and Investors are encouraged to work with qualified professionals when establishing and implementing their financial plans. Plans should be reviewed periodically and updated as business climates and taxes change.

This publication includes ideas, perspectives & presentations by accounting professionals, lawyers, portfolio managers & business owners & executives.

Articles are for reference only and should not be deemed as legal, accounting or investment advice. Circumstances vary. Consult a qualified and reputable professional about your business matters.

The Capital Partner promotes the values, practices & principles championed by:
Warren Buffett & Charles Munger
of Berkshire Hathaway Inc.

These principles suggest investors, business owners, partners & executives:

- consider taxes & fees
- avoid speculation or market timing
- focus on sustainable growth
- seek competitive advantages
- hire managers who are honest, capable & think like business owners
- consider long term strategies and succession plans

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Mind Your Business:

Take the Small Business Tax Quiz

IN FALL, **Mackenzie Investments** released the results of a survey that asked small business owners ten True or False questions testing their tax knowledge.

Scoring an average 3 out of 10 correct, the results show how tough it is for small business owners to keep up with complex and changing tax and estate planning trends.

"Knowledge is power for small business owners; and in the complex and changing world of taxes, more power is needed," said **Sandy Cardy**, Senior Vice President, Tax and Estate Planning, Mackenzie Investments.

"Entrepreneurs have multiple details to attend to each day, but a general understanding of tax rules can help them save tax dollars today in order to preserve equity in their business."

The questions, which follow focus on a mix of tax, retirement, estate and contingency planning issues.

"A small business owner might have a team of accountants and financial advisors working for them. But tax knowledge helps them play with that team, not just sit on the sidelines," says Cardy.

"Both the company's and the entrepreneur's future depend on his or her ability to help develop workable tax, estate, and succession plans for the business."

Mackenzie surveyed 337 small businesses across Canada the following ten True or False questions. The correct answers can be found on the following page.

1. Your small business is a private corporation so it pays a reduced rate of corporate tax on the first $300,000 of active business income. **True or False**?

2. Your spouse is a shareholder of your small business corporation. A dividend can be paid from the business to your spouse and be included in your spouse's taxable income. **True or False**?

3. Your private company's annual contribution to an Individual Pension Plan is taxable to the pension plan participant in the year the contribution is made. **True or False**?

4. In some provinces a secondary will can be used to address the transfer of private corporation shares upon death of the shareholder in order to reduce probate taxes. **True or False**?

5. Life insurance cannot be owned by a private corporation on the life of a shareholder. **True or False**?

6. I can use a family trust to hold 100% of the common shares of my private company. **True or False**?

7. Retained earnings in both my operating company and my holding company are creditor protected. **True or False**?

8. Investment income is taxed at a lower rate in a private corporation as compared to being taxed at the individual level. **True or False**?

9. A $750,000 lifetime capital gains exemption is available in respect of the sale of qualified small business corporation shares. **True or False?**

10. At age 18, your child, who is a shareholder of your company, can be paid a dividend, taxed at your child's own marginal tax rate. **True or False**?

1. Your small business is a private corporation so it pays a reduced rate of corporate tax on the first $300,000 of active business income. **False**. (25% correct) **Answer**: **It pays a reduced rate**

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Answers & Commentary on Small Business Survey (continued)

(Continued from page 3)

of corporate tax on the first $400,000.

2. Your spouse is a shareholder of your small business corporation. A dividend can be paid from the business to your spouse and be included in your spouse's taxable income. **True**. (34% correct)

3. Your private company's annual contribution to an Individual Pension Plan is taxable to the pension plan participant in the year the contribution is made. **False**. (30% correct) **Answer: The company can deduct the contribution in the year it was made, but the participant only pays tax when they withdraw funds in retirement.**

4. In some provinces a secondary will can be used to address the transfer of private corporation shares upon death of the shareholder in order to reduce probate taxes. **True**. (11% correct)

5. Life insurance cannot be owned by a private corporation on the life of a shareholder. **False**. (52% correct) **Answer: Corporate-owned life insurance can insure a shareholder's life, and the corporation pays the premium with less expensive after-tax corporate dollars.**

6. I can use a family trust to hold 100% of the common shares of my private company. **True**. (28 % correct)

7. Retained earnings in both my operating company and my holding company are creditor protected. **False**. (42% correct) **Answer: Assets in an operating company are not creditor protected (from creditors of that company) but assets in the holding company are protected from creditors of the operating company.**

8. Investment income is taxed at a lower rate in a private corporation as compared to being taxed at the individual level.

False. (20% correct) **Answer: In all provinces except Quebec, investment income in a corporation is generally taxed higher than it would be at an individual level under current tax rules.**

9. A $750,000 lifetime capital gains exemption is available in respect of the sale of qualified small business corporation shares. **True**. (27% correct)

10. At age 18, your child, who is a shareholder of your company, can be paid a dividend, taxed at your child's own marginal tax rate. **True**. (34%correct)

OF NOTE:

- Only 8 per cent of small business decision makers were able to answer seven or more out of ten questions correctly.
- Only one question was answered correctly by the majority; #5
- Those with an annual revenue of over $500K are more likely to know that they can use a family trust to hold 100% of common shares (37 per cent), compared to businesses with annual revenues of less than $500K (10 per cent)

However, 34 per cent of businesses with revenue under $500,000 are more likely to know investment income is not taxed at a lower rate in a private corporation than at the individual level, compared to just 17 per cent of businesses with annual revenue over $500,000. ❍

The survey results are based on a **Leger Marketing** national online survey with a representative sample of 337 small business owners between October 6 and 16, 2008. The businesses had between 5 and 50 employees, and were either incorporated, in a partnership or sole proprietorship. A sample of this size will provide results that can be considered accurate for the population overall to within plus or minus 5.3 per cent, 19 times out of 20.

The RULE of LAW by Stanley Rule

Viberg vs. Viberg

Dispute Amongst Family Members Demonstrates Why Keeping Your Will Updated is Critical

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IN A RECENT DECISION IN THE BC Supreme Court, **Mr. Justice Chamberlist** considered the provisions of the ***Estate Administration Act*** governing the distribution of intestate estates (for those who die without a will) when balancing the competing interests of a spouse and children in a ***Wills Variation Act*** dispute.

In ***Viberg v. Viberg***, 2009 BCSC 27, two of **Harland Viberg's** three children applied to vary their late father's will. **Harland Viberg** died back in 1995. His will, made in 1979, left his estate to his wife, the plaintiffs' mother, **Sherrie Viberg**.

Harland and Sherrie Viberg had separated about three years before Harland Viberg's death, but he had not made a new will. They parted amicably, agreed on how to divide the family property, but had not yet agreed on spousal support or concluded a separation agreement.

" The court held that Harland Viberg had not made adequate provision for the plaintiff children."

On his death, the net worth of Harland Viberg's estate was about $317,000. Sherrie Viberg also received life insurance benefits of $382,500 as well as Canada Pension Plan survivor's benefits.

Sherrie Viberg had some assets of her own when Harland Viberg died. She owned a house, assumed to be worth $184,000, and $72,000 in RRSPs. The plaintiff children were in their mid-twenties when their father died. Their financial circumstances were modest.

Obligations to Family Members

Mr. Justice Chamberlist held that Harland Viberg had legal and moral obligations to his separated wife, and to the plaintiff children.

The court held that Harland Viberg had not made adequate provision for the plaintiff children. Because his will did not make any provision for his children, Harland Viberg had not met his moral obligations to them.

Judge Divides Estate

Mr. Justice Chamberlist considered what portion the children would have received if Harland Viberg had died without a will.

He wrote, "The Province of B.C., by virtue of s. 85 of the Estate Administration Act, R.S.B.C. 1996, c. 122, has, I believe, come to terms with what the legislature views as an adequate, just and equitable distribution where no will has been left by a testator."

Under section 85, Sherrie Viberg would have been entitled to the first $65,000 of the estate and one-third of the balance. The three children would have then shared $^2/_3$ of the balance of their father's estate.

Based on the $317,500 net value of the estate, Mr. Justice Chamberlist calculated the share of each of the plaintiff's at $56,090. He held that an appropriate award would be $50,000 for each of the plaintiffs, but reduced the share of the plaintiff **Darren Viberg** by $5000 to reflect some items Darren Viberg had received from his father's estate.

The children were also entitled interest on their awards of 5% per annum from the first anniversary of their father's death.

COMMENT:

This is the first case that I am aware since the Supreme Court of Canada's decision in ***Tataryn v. Tataryn Estate***, [1994] in which the court considered the laws governing distribution of intestate estates when varying a will under the *Wills Variation Act (WVA)*.

Prior to *Tataryn*, the B.C. Court of Appeal had rejected using the intestacy distribution as a measure of an award under the *WVA*. I think the analysis of a testator's legal and moral obligations in *Tataryn* allows the court to consider the provisions for distribution of intestate estates.

I also think the provisions for intestate distribution provide a reasonable measure for a case like Viberg, although I would not like to see courts mechanically apply the intestacy provisions to *WVA* cases.

I note that the provision for the first $65,000 to the spouse reflect the economics of an earlier time.

In 2008, Bill 28, was introduced into the BC Legislature. It would have increased the spousal preferential share of an intestate estate from $65,000 to either $150,000 (if the deceased has children or other descendants from another marriage or relationship) or $300,000 (if the deceased's descendants are the descendants of both the deceased and the surviving spouse).

The bill was never passed. ❍

The American Financial System: Can You Bank On It?

Given the headlines about U.S. banks, comments from John Stumpf - President and CEO of Well's Fargo Bank, seemed timely. Under his leadership, Well's Fargo continued their tradition of disciplined loan underwriting and dodged most of the subprime mess. When commenting on the lending practices of his peers, Stumpf said, "It is interesting that the industry has invented new ways to lose money when the old ways seemed to work just fine." These were his comments to the House Financial Service Committee on February 11, 2009.

Note: Well's Fargo has traditionally been a holding in the Standard Life US Equity Fund.

"Mr. Chairman and members of the Committee, I'm **John Stumpf**, President and CEO of Wells Fargo & Company.

Our company has been serving customers for going on 158 years. We're an American company. Virtually all our businesses and team members are in the U.S. We're in all 50 states.

We are a community bank. We have 281-thousand team members – who earn fair and competitive wages and benefits, including health care. They live and work in thousands of communities across North America – from big cities like Los Angeles and Miami to small towns like Spearfish, South Dakota and Alice, Texas. I've been a community banker with our company for almost three decades.

I know what it's like to be on the teller line and on the banking floor working with our customers.

I personally have served customers in cities and towns across Minnesota, Colorado, Texas and now California.

> **" In the last 18 months – when our competitors retrenched – Wells Fargo made $540 billion in new loan commitments and mortgage originations."**

Across the country many of our customers are facing difficult times. Now, as always, we want to do what's right for them. We're very proud that Wells Fargo has been open for business for our customers.

We never stopped lending. In the last 18 months – when many of our competitors retrenched – Wells Fargo made $540 billion in new loan commitments and mortgage originations. They are as follows:

- $63 billion commercial/ commercial real estate
- $123 billion consumer and small business
- $354 billion home mortgages

Last quarter alone, we made $22 billion in new loan commitments and $50 billion in mortgages – a total of $72 billion in new loans. That's almost three times what the U.S. Treasury invested in Wells Fargo. With the merger, we have reopened lines of credit to some Wachovia customers who previously had been denied credit.

We do business and lend money the old-fashioned way – responsibly and prudently. As a result, we earned a profit last year of almost three billion dollars.

> **"We are always careful stewards of our shareholders' money."**

We have not used any of the government investment for dividends, bonuses, or compensation of any kind – nor will we. **We have the highest credit ratings currently given to any bank in the country.**

We understand the very important responsibility that comes with receiving public funds. We are always careful stewards of our shareholders' money. The investment by the government is being used in the same prudent way. We have never been wasteful. We spend money to support the business and make a profit for our investors. We are frugal. Last year, our overall corporate expenses actually declined one percent while our revenue rose over seven percent.

We said from the start that we'll use the government's investment to help make more loans to credit-worthy customers. We said we would use the funds to find solutions for our mortgage customers who are late on their payments or facing foreclosure – so they can stay in their homes. We also said we would report on our progress. We have done just that.

We recently announced our first dividend payment to the tax-

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payers for their investment in Wells Fargo preferred stock. Our first dividend payment on their investment was more than a third of a billion dollars. We're Americans first and bankers second – so we see this taxpayer investment, first and foremost, as an investment in the future economic growth of our country. We're proud to be an engine for that growth.

Last quarter we made $22 billion in new loan commitments. Our average outstandings – on a linked quarter annualized basis were:

- Student loans, up 12 per cent
- Agricultural loans up 14 per cent
- Middle Market commercial loans, up 14 percent
- SBA loans, up 11 percent
- Commercial real estate loans, up 15 percent

Now, as to mortgages. Last year we made $230 billion in mortgage loans. That made home-ownership possible for more than half a million families. It also includes refinancing almost a half a million existing loans. That lowered mortgage payments for families across our country. At year-end, we had $71 billion of mortgages still in process – up threefold annualized from the third quarter – a sign of strong momentum for 2009.

Our mortgage lending is built on solid underwriting and responsible servicing. Because of that, 93 of every 100 of our mortgage customers are current on their mortgage payments.

That performance is consistently better than the industry average.

In 2008, we nearly doubled our team dedicated exclusively to helping customers stay in their homes – which improved our outreach. Because of that, we were able to contact 94 of every 100 customers who are two or more payments past due on their mortgages. Of those we contacted, we were able to work with seven out of ten to find a solution. This resulted in our being able to deliver 706,000 solutions to help Americans avoid foreclosure during the last year and a half. That is 22 percent of the 3.2 million solutions reported by the industry.

Last quarter alone, we provided 165,000 solutions to our mortgage customers. That was three times as many as the last quarter of 2007.

When we modify a loan, about seven of every ten customers remain current or less than 90-days past due, one year later.
There is, however, much more work to be done.

We continue to invest in more people and systems to help even more at-risk homeowners.

Across the country, we're partnering with real estate agents, cities and nonprofits to speed up the selling of bank-owned properties so they can become, once again, owner-occupied.

For all these reasons, we believe the Treasury's investment of taxpayer dollars in Wells Fargo has been – and will continue to be – a wise and profitable investment – for our neighborhoods, for our country, and for our economy.

Mr. Chairman and Members of the Committee, thank you and I would be happy to answer questions…” ❍

> **“We recently announced our first dividend payment to the taxpayers for their investment in Wells Fargo preferred stock. Our first dividend payment on their investment was more than a third of a billion dollars. We're Americans first & bankers second – so we see this taxpayer investment, first and foremost, as an investment in the future economic growth of our country.”**

(Continued from page 1)

Keeping your TFSA with an insurance company

- **Estate planning benefits -** Proceeds from a plan held at an insurance company can by-pass the probate process and can be paid directly to beneficiaries, without delay.

If the decline in the equity markets has made you lose sleep, the guarantees may be of interest.

The potential creditor protection should be of interest to business owners, senior management, professionals, property owners or anyone with potential liabilities or creditor claims.

Estate planning benefits will be of interest to anyone seeking an effective method for transferring assets to future generations.

If you are currently working with an advisor, you may wish to query him or her about the above advantages. If they're not familiar with these advantages, check out the following website: http://www.clhia.ca/download Guide_seg_fund_contracts.pdf ❍

RRSPs Exempt...

(Continued from page 1)

fore November 1, 2008.

But, a transfer of funds by a planholder from one plan to another, or on the death of the planholder to his or her spouse or common law spouse under the terms of the plan, will remain exempt. ❍

GIC Rate Comparison—March 3, 2009.

	1 yr	2 yr	3 yr	4 yr	5 yr	10yr
Manulife Investments	2.50%	3.15%	3.75%	3.85%	4.00%	3.90%
Empire Life	2.12%	2.75%	3.50%	3.75%	4.25%	4.00%
Standard Life	1.95%	2.23%	2.70%	2.90%	3.15%	3.25%
Manulife Bank	2.05%	2.85%	3.10%	3.20%	3.30	n/a
Sun Life	1.90%	2.65%	2.90%	2.90%	4.15%	3.35%
Royal Bank	0.85%	1.60%	1.90%	2.00%	2.20%	n/a
Bank of Montreal	1.00%	1.60%	1.90%	2.00%	2.20%	n/a
TD Bank	0.85%	1.60%	1.90%	2.00%	2.20%	n/a
Scotiabank	1.00%	1.60%	1.90%	2.00%	2.20%	n/a

Source: Cannex Annual effective rates for contracts $25, 000. Subject to change. E & E.O.

Wills: If You Think You Don't Need One, Think Again

For many Canadians, writing a will is far from the top of a busy to-do list. After all, contemplating and planning for your own demise is never a pleasant exercise. Yet it's one all of us must face at some time in our lives, and there are a number of good reasons why Canadians shouldn't procrastinate when it comes to writing their will – especially when you consider how little it costs and the benefits that result from what can be a relatively simple task.

A will is an essential part of an estate plan, but what many people don't understand is why.

In a nutshell, a will is what speaks for you after you pass away. It communicates your intentions and allows you – and not the government – to determine how the assets you have worked hard to accumulate will be distributed upon your death.

A will facilitates the administration of your estate, can help you save taxes and avoids the potentially undesirable consequences of dying "intestate" – which means dying without a will.

Nevertheless, despite the importance of having a will, it has been estimated that about half of all Canadians have not taken the time to create one.[1]

You put a lot of effort into acquiring wealth, so doesn't it make sense to ensure your interests are preserved after you pass away?

What is a Will?

A will is a formal document that sets out your intentions on how your assets are to be distributed after your death. It also allows you to designate the person(s) you wish to take care of your children should both you and your spouse pass away.

More specifically, the will designates the person or institution known as the "executor," who will administer your financial affairs after death, specifies beneficiaries to whom the assets are to be distributed, and articulates when and how the distributions are to be made. A will can also include special provisions for your children or disabled beneficiaries, and can specify whether certain debts owed to an individual are to be repaid or forgiven.

Generally, a will can be updated either through the use of a codicil (a testamentary document that makes one or more changes to a will) or a new will.

In addition, a will is revocable – that is, the testator (the person making the will) always has the ability to amend or revoke the will, while mentally competent, if he or she chooses to do so.

> **"You put a lot of effort into acquiring wealth, so doesn't it make sense to ensure your interests are preserved after you pass away?"**

Having a well-drafted will can minimize the cost and delays of administering your estate, decrease or postpone taxes, and reduce the complex and time-consuming financial issues your friends and family would otherwise have to deal with after your demise.

For these reasons, it is prudent to establish a will early in life – after purchasing your first home, for example, or immediately upon marriage or the birth of your first child.

What If I Don't Have a Will?

If you don't have a will or your will is deemed to be invalid, you will be deemed to have died intestate. Ultimately, the court will appoint someone to administer and distribute your estate according to the intestacy laws of the province in which you reside, regardless of what your wishes are. This means that your assets may not be distributed to your beneficiaries as you intended.

Under intestacy laws, your spouse will usually receive a certain amount of your estate, often known as the "preferential share," and the remainder will be divided among your children. In Quebec, the spouse is guaranteed to receive a portion of the estate. This may not seem problematic, but in some situations it can lead to undesirable results. Take a case in which spouses are separated and estranged. Because they haven't divorced they are still technically spouses, which means the intestacy rules require that all or part of the estate be distributed to the surviving, separated spouse.

Also consider situations in which there are minor children. Portions of an estate payable to a minor child are usually paid into court (administered by the surviving parent or a court-appointed tutor) until the child reaches the age of majority.

This means that at the age of 18 (this varies from province to province), a child could take charge of his or her full entitlement. For many people, leaving significant sums of money to young adults is a concern since many teenagers are not mature enough to ensure that a sudden windfall will be put to prudent use.

Intestacy may also result in more taxes being paid, resulting in less money for your family. What's more, the distribution of assets is often much slower and more ex-

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[1] "Where there's a will, there's a way…to ensure the people you care for are looked after, according to RBC survey." CNW Group, 4 January 2007.

Wills: continued...

(Continued from page 9)

pensive with intestacies, which can make the whole process frustrating for your loved ones at a time when they are already grieving your loss.

Preparing Your Will

IT is generally recommended that you retain the services of an experienced lawyer when preparing a will. Wills must satisfy certain technical requirements and it is very important to anticipate and provide for all possibilities. If a court does not agree with the way you have prepared your will, or if parts of it are unclear, it may be declared invalid. Each province has its own laws regarding wills and your legal advisor will ensure that yours meets these requirements.

Preparing a will involves several steps:

1. Make a list of your assets. Include your home, car, cottage, business interests, life insurance, investments, etc. You'll need to review the ownership of these assets. Do you own them solely or jointly? For life insurance policies or registered plans (such as RRSPs or RRIFs), is there a beneficiary named within the contract?

2. Consider how your estate will be divided and who will get what. If done properly, this should include an estimate as to the size of your estate and the taxes owing on your death.

3. Choose an administrator (executor) of your estate. The executor has to protect and administer your estate in a prudent and responsible manner. This person should be trustworthy, familiar with tax, estate, accounting and investment issues, and willing and able to assume such a responsibility. Naming an alternative executor in case the first one is unable or unwilling to do the job is usually a good idea.

4. Decide who you want to take care of your children should you and your spouse pass away. When deciding whom to select, keep in mind the age of the guardian(s), their health and their ability to care for your children.

It is recommended that you speak to those you are considering to confirm they are willing to accept this responsibility.

It's also a good idea to name back-ups in case your first choice(s) can't or won't take on the responsibility when the time comes. Note that ultimately it is up to the courts to decide what is in the best interest of the child (ren); however, the parents' wishes usually play a significant part in the courts' decision.

Your Will Has Been Prepared: Now What?

Once you have prepared your will, you must remember to keep it updated.

You should review your will regularly and amend it whenever there is a significant event in your life or the lives of your heirs, such as a marriage, divorce, birth, death, disability or new business.

Keep in mind that in most provinces other than Quebec, marriage revokes an existing will unless the will specifically contemplates the marriage. A will should also be reviewed after a change to income tax, family or successor laws.

Ideally, a will should be reviewed every year or two even if there haven't been any significant changes to ensure that it continues to reflect your intentions. Keeping a will current is also your best insurance against potential changes in legislation.

Do Common Law Partners Have the Same Rights as Spouses?

Although common-law partners are treated in the same way as spouses for tax purposes, their rights under certain provincial estate laws may be limited, and this varies from province to province.

If you are currently in a common-law relationship, it is very important to consult with a lawyer to become more familiar with the laws in the province where you reside. The common-law partner may not have other assets to adequately provide for him or herself and the children, and it may be that they cannot easily access any money inherited by the children.

Protection For Your Family

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RBC Study Finds Home Buying Intentions Still Strong

Opportunity awaits— two-in-three Canadians think it's a buyer's market

TORONTO, March 4, 2009 —

According to the 16th Annual RBC Homeownership Survey, 65% of Canadians think it's a buyers market right now and more than a quarter of Canadians (27%) say they intend to purchase a home over the next two years, up four points from 23% in 2008 - the largest single year increase since 2001.

Additionally, almost half (48%) indicate it makes sense to buy a home now versus waiting until next year.

The RBC survey found that younger Canadians are most likely to spark an upsurge in home sales. In the under 35 group, 48% said they plan to buy, which is up sharply from 36% last year. Renters also appear to be saying they are tired of paying someone else's mortgage payment, with 38% planning to become homeowners in the next two years.

"The current economic environment does not appear to have dampened Canadians' overall confidence in the housing market," said **Karen Leggett**, head, Home Equity Financing, RBC Royal Bank.

"Canadians continue to have an overwhelming belief in the long-term value of a home and we're seeing this in the buying intentions of many first time homebuyers this year."

A large majority of Canadians (83%) remain positive that homeownership is a good investment.

While the proportion is down slightly from 85% in 2008 and from the all time high of 90% in 2006, it is 10 points stronger than it was a decade ago (72 %).

Among those who intend to buy, three-in-ten say favourable housing price is a major reason driving their decision.

In a marked change from last year, 54 % of Canadians believe housing prices will be lower in 2009, up from 31% in 2008. Similarly, the study showed 14% of Canadians believe their home has lost value in the last two years.

Of these, most (54%) think it will take three-to-five years for their home to recover its value.

"Low mortgage rates and favourable housing prices are influencing home purchase intentions this year and may be the reason why more Canadians are poised to purchase over the next two years," added Leggett. ❍

	Now is a Buyers Market	Intentions to Buy
BC	78%	26%
Alberta	72%	35%
Sask/Man	34%	25%
Ontario	73%	30%
Quebec	52%	22%
Atlantic Canada	58%	25%

Wills: continued...

(Continued from page 10)

By creating a will, you can avoid unnecessary costs, delays and the undesirable results of intestacy, while gaining the ability to choose the executor of your estate and the guardian(s) of your children. When you consider that most wills can be prepared for a few hundred dollars, and also take into account the potential consequences of not having one, it is clear that everyone should have a will. ❍

SAMPLE ANNUITY RATES

As of **March 2, 2009.** Based on a $100,000 premium deposit. Payments are **Guaranteed for LIFE** and include a 10 year guarantee payment stream (i.e. balance paid to beneficiaries). Rates change daily, please request a personal quote. Source. Empire Life - March 2, 2009. E & O.E.

Age & Sex	Standard Life	Effective Annual Payment	Empire Life	Effective Annual Payment	Manulife Financial	Effective Annual Payment
60 Yr Male	$ 563.69	6.764 %	$ 586.42	7.037 %	**$ 617.63**	**7.411 %**
60 Yr Female	$ 528.87	6.346 %	$ 544.21	6.530 %	**$ 573.92**	**6.887 %**
60 Yr Joint	$ 490.55	5.886 %	$ 498.60	5.983 %	**$ 530.39**	**6.364. %**
65 Yr Male	$ 622.94	7.475 %	$ 653.78	7.845 %	**$ 672.77**	**8.073 %**
65 Yr Female	$ 580.98	6.971 %	$ 600.30	7.203 %	**$ 627.08**	**7.524 %**
65 Yr Joint	$ 533.82	6.405 %	$ 544.00	6.532 %	**$ 567.32**	**6.807 %**
69 Year Male	$ 679.93	8.159 %	**$ 710.22**	**8.522 %**	$ 707.29	8.487 %
69 Yr Female	$ 634.21	7.610 %	$ 651.82	7.821 %	**$ 670.24**	**8.042 %**
69 Year Joint	$ 579.28	6.951 %	$ 588.35	6.951 %	**$ 588.62**	**7.063 %**
75 Yr Male	$ 780.37	9.364 %	**$ 793.26**	**9.519 %**	$ 788.97	9.467 %
75 Yr Female	$ 737.15	8.845 %	$ 740.67	8.888 %	**$ 744.97**	**8.939 %**
75 Yr Joint	**$ 672.10**	**8.065 %**	$ 671.92	8.063 %	$ 664.61	7.975 %