

# Planning for the Future

Burnaby Association for Community Inclusion  
Money Matters Workshop

## Disability & Estate Planning

By:

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# ABOUT ME:

- Over 10 years experience practicing exclusively in the area of estates & trusts law, including estate planning, administration, litigation and mediation
- Strong relationship with the disability community and other partners
- Past Chair of the National Board of Directors of Muscular Dystrophy Canada
- Genuine belief in providing the very best in customer service at affordable prices

# EMPLOYMENT & ASSISTANCE FOR PERSONS WITH DISABILITIES ACT (EAPDA)

- ELIGIBILITY REQUIREMENTS (s. 2(2) of EAPDA):
  - A resident of BC
  - 18 years of age or older
  - Have a severe mental or physical impairment:
    - Likely to continue for at least 2 years
    - Directly and significantly restricts the person's ability to perform daily living activities
      - Continuously, or
      - Periodically for extended periods,
      - And as a result of those restrictions, the person requires help to perform those activities

# EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION(the “Regulation”)

- Exempt Assets (ss. 10 & 12 of the Regulation):
  - for an individual with no dependent children, \$3000
  - for a person with one or more dependents, family assets of \$5000
  - a house or apartment in which you live, i.e. a principal residence
  - a motor vehicle
  - household goods, tools of trade, etc., and
  - assets held within a trust

# EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION(the “Regulation”)

- Income Limitations (ss. 9, 12 & 24 of the Regulation):
  - a \$500 earnings exemption per family unit per month on earned income
  - every dollar earned above the \$500 exemption amount is deducted dollar for dollar from the person’s disability benefits
  - unearned income is deducted dollar for dollar from the person’s disability benefits

# TYPES OF INCOME

- Earned income = income from wages
- Unearned Income = income that is not earned income and includes, “money or value received” from investments, a trust\* or an inheritance\*\*
  - \* except payments from a trust to or on behalf of a person if the payment is exclusively for “disability related costs” or the amount paid for costs to promote independence in a given year is not more than \$5,484
  - \*\*does not include money withdrawn from an RDSP

# COMMON ESTATE PLANNING VEHICLES

- Wills
- Trusts
- Powers of Attorney
- Representation Agreements
- Advanced Care Directives

# WHAT IS A WILL?

A WILL IS A LEGAL DECLARATION OF YOUR WISHES REGARDING THE DISPOSITION OF YOUR ASSETS AFTER YOUR DEATH.

THE PERSON MAKING A WILL, A TESTATOR/TESTATRIX, APPOINTS A PERSONAL REPRESENTATIVE, CALLED AN EXECUTOR/EXECUTRIX, WHOSE ROLE IS TO GATHER UP YOUR ASSETS, PAY YOUR DEBTS AND DISTRIBUTE YOUR ESTATE AS YOU HAVE SET OUT IN YOUR WILL.

# WHAT IS AN ESTATE?

ALL PROPERTY THE DECEASED OWNED,  
OR HAD A RIGHT TO A SHARE OF, WHICH  
CAN BE DISPOSED OF BY WILL, INCLUDING:

- TANGIBLE ASSETS
- INTANGIBLE ASSETS
- LESS: ALL DEBTS THE DECEASED OWED AT  
THE DATE OF DEATH

# WHAT IS PROBATE?

THE LEGAL PROCESS WHEREBY YOUR EXECUTOR/EXECUTRIX MAY OBTAIN COURT APPROVAL TO ADMINISTER AND DISTRIBUTE YOUR ESTATE IN ACCORDANCE WITH YOUR WILL AFTER YOUR DEATH.