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Personal Estate Planning Guide

This Guide Belongs to: _____

First Nations Lands Managers Association for
Québec and Labrador
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PERSONAL ESTATE PLANNING GUIDE

A Practical Resource

First Nations Lands Managers Association for Québec and Labrador

Visit our website at

www.fnlmaql.ca

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DISCLAIMER:

This Planning Guide is intended to be used as a supporting, best practice guide for First Nation members living on reserve in Quebec. It is for information purposes only. It is not intended to provide legal advice. Seeking the advice of a qualified notary or lawyer is always recommended in personal estate planning.

PREFACE:

The FNLMAQL has a mandate to support First Nation lands professionals by building capacity, providing training opportunities, and offering tools such as this guide, to help maneuver the often-complex paths of First Nation estates.

This guide is intended to support First Nation members living on reserve in Quebec.

INTENDED USE OF THIS GUIDE:

Estate Planning is a very important act that shows you care for the loved ones you are leaving behind. Once completed, this guide will serve two main purposes:

- It will help in the preparation of your will, whether you use a notary, lawyer or prepare it yourself
- It will support your estate executor or administrator in carrying out your wishes upon your passing.

It is a supplementary guide to be used in tandem with a legal will. It is not meant to replace legal advice or to be used exclusively as your only mechanism for estate planning.

A known contributor to the stress of processing an estate is the absence of a will clearly laying out the deceased's wishes and locating key documents and important information. Our hope is that this planning guide relieves some of that stress both for the preparation of a will and the processing of the estate by having of your information can be located in one convenient place.

This document includes important personal details. Be sure to keep this in a safe place and to tell someone you can trust where it can be found in the event of your death.

WHAT IS AN ESTATE AND A WILL:

A person's estate is made up of the assets someone has left after all their debts have been paid. Everyone has an estate, no matter how big or how small, and it could include assets such as homes, lands, cars, money and other personal property.

A will is a legal document that outlines a person's wishes as to how their belongings will be distributed following their death. In other words, a will outlines what happens to the estate of a person after they die. A person's will can specify who is going to inherit their belongings as well as who will be distributing them. It can also include other instructions about who will act as guardian for minor children, who will take care of your pets, funeral wishes and other instructions.



Having a will is not necessary, but it is strongly recommended to have one. Having a will in place has many benefits:

- It gives you control over what happens to your belongings after you die
- You can ensure that your surviving spouse and family members are provided for
- If you have a non-member spouse, you can increase the chance that they can stay in your home
- You decide who will be responsible to manage the distribution of your estate
- It will likely speed up and simplify the process for your family to have your estate distributed
- It will limit conflicts amongst family members and loved ones
- You can express your funeral and burial arrangement wishes
- You can express your wishes over who will take care of your minor children and dependent adults
- If you have pets, you can set out who will take them and provide any related wishes
- Knowing you have a plan in place, will give you peace of mind and reduce anxiety.

When a First Nation member ordinarily living on reserve dies without a will, they are said to have died intestate. In this case, the person's estate will be managed according to the *Indian Act*. Indigenous Services Canada will appoint an administrator for the estate, and the estate will be distributed according to the formula set out in the *Indian Act*.

IF YOU ARE CREE, NASKAPI OR YOUR COMMUNITY HAS A LAND CODE:

Please note that if you are Cree or Naskapi, the *Indian Act* does not have jurisdiction over wills and estates in your community. In that case, it is important to discuss with your lands department, a lawyer or a notary to understand the legal regime that applies. Similarly, if your community has a Land Code, there may be a different legal regime that applies to the wills and estates of community members. If you are uncertain, you can obtain information from your local lands department.

As a final note, any reference to “reserve” in this Guide, includes Category IA land of Cree communities in Quebec and Category IA-N land for the Naskapi.

SOCIAL MEDIA:

Facebook and some other social media platforms offer ‘Memorial Accounts’ to be created after someone has passed. This can be delayed if you are unable to provide the information needed right away. Facebook now offers ‘legacy contacts’ where in the event of a death, they are allowed to request the Memorization of the Facebook account.

Instead of deleting the account, it can be used for loved ones to post on the deceased's wall. You can post farewell, funny stories, birthdays, anniversaries, and still access photos they were tagged in.

Visit the Facebook Help Center under Accounts for more information on how to create a legacy contact.

List your different social media accounts and corresponding passwords under the Electronic Billing and Social Media section on p.25 of this guide.



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