



Wealth  
Management

# the Navigator

INVESTMENT, TAX AND LIFESTYLE PERSPECTIVES FROM RBC FAMILY OFFICE SERVICES



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## Planning considerations when entering a new relationship

Planning life with a partner is quite different than planning just for yourself. You and your partner may have distinct ideas, habits and expectations. In addition, you and your partner may have varied financial circumstances, goals and objectives. This article discusses some of the financial, legal, tax and estate planning matters you may wish to consider at the start of your new relationship as you plan your life together.

### Types of relationships

There are two types of relationships that are legally recognized in Canada: married and common-law (also known as de facto union in Quebec). A common-law relationship generally refers to a relationship where two people have lived together in a conjugal relationship for a certain length of time (at least 12 months and up to three years depending on the governing legislation in question) or with a person who is the parent of your child.

For tax purposes, married and common-law partners (those who have been living together in a conjugal relationship for at least 12 months or have a child together) are treated the same. However, there are differences between the provinces and territories in the rights afforded to married and common-law partners for family law

and succession planning purposes. It's important to understand how your relationship will be treated, as this may have an impact on your planning.

### Financial planning

#### Prepare a household budget and financial plan

As your relationship develops, it should become more natural to discuss your income, salary and career goals. Being transparent about your savings goals and spending habits will help to create an accurate household budget. Maintaining a detailed household budget is an important tool as you progress with your life as a couple. Deciding together how best to allocate cashflow and prioritize expenses can not only prevent headaches, but it can also help establish valuable habits and may save you money.

## Determine the optimal structure for ownership of assets

The types of assets you own and how you own them should be part of your budget discussions. Do you want to own your real estate, investment accounts and bank accounts in sole or joint names, or use more than one form of ownership? And, what are the advantages and disadvantages to different forms of ownership?

Sole ownership of an investment or bank account means only you will have the legal authority to access the funds in the account. You will have total control over the assets, and you are the only person capable of providing instruction or to receive account information relating to the assets. Your spouse or common-law partner, in their personal capacity, will not have any influence over the account. You may choose to retain sole ownership over certain assets because of personal, legal or tax reasons. In the case of income-producing property, it might be easier to comply with the income attribution rules that apply to spouses if ownership is solely held so tax slips are issued directly to the taxpayer.

Joint tenancy with the right of survivorship (JTWROS) is a common way for couples to jointly own property outside of Quebec. It can provide ease of access for both of you to the jointly held funds and can give you both the freedom to make investment management decisions. A significant advantage to JTWROS is that upon the death of one owner, the surviving owner will assume the deceased's ownership interest, which makes for a seamless transition of ownership (this is referred to as the "right of survivorship").

Another form of shared ownership that is available to you throughout Canada, including Quebec, is tenants-in-common (TIC). This describes the ownership of an asset by two or more individuals but without the right of survivorship. Each account holder or property owner is entitled to a defined portion of the assets, but the shares do not have to be equal. When one of the account holders dies, their interest forms part of their estate and is distributed according to the terms of their Will, or intestacy laws if the deceased did not have a Will.

When considering whether to place your accounts and other assets in joint names, bear in mind that joint accounts are useful for paying household bills and family expenses. They also allow you to monitor the personal spending of both account holders without compromising their access to the assets. Individual accounts enable you to keep funds separate to be used for your own spending needs.

Consider how these accounts would function on death. If you hold assets in your sole name or as TIC, your assets will form part of your estate and be distributed (subject

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to any marriage or cohabitation agreement or family law obligations) as per the terms of your Will, or if there is no Will, per the governing provincial or territorial intestacy laws. This also likely means these assets will be subject to probate fees. If you hold assets in joint names with the right of survivorship, they will pass outside of your estate, directly to the surviving joint owner and will not be subject to probate fees.

Placing assets in joint names could potentially expose the assets to your spouse or common-law partner's creditors and increase their exposure to property claims on relationship breakdown. These risks may be reduced if your assets are kept in your sole name.

## Tax planning

There are many tax credits that can be shared or transferred between spouses or common-law partners that can be used to reduce the overall tax burden for the couple. Common credits to share include the spousal tax credit (also known as the spouse or common-law partner amount), which can be claimed if you supported your spouse at any time in the year and their net income was less than the basic personal amount. It's also possible to share the age amount, caregiver amount, pension income amount, disability amount, and tuition amount with a higher-earning spouse if the full credit is not needed to reduce the transferring spouse's federal tax to \$0. Donation tax credits and medical expense tax credits are examples of credits that can be combined and applied to one spouse or common-law partner's tax return.

Spouses and common-law partners are also given the opportunity to income split in different ways depending on the source of the income. It's very common to split eligible pension income to have a portion taxed at your spouse or common-law partner's lower marginal rate, while reducing your taxable income. You may be eligible to share your Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) retirement pension with your spouse or common-law partner. There are more complex strategies involving prescribed rate loans that can be used to shift investment income from a higher-income spouse or common-law partner to a lower-income spouse or common-law partner.

If you think that any of these mentioned tax planning opportunities may benefit your family, obtain the advice of a qualified tax professional before proceeding.

## Evaluate your need for insurance

When planning your life as a couple, be sure to consider your insurance needs. Depending on your situation, there may be multiple insurance products that can be used to mitigate your family risk, including home and auto insurance, health and dental insurance, and short- and long-term disability. You will need to review your insurance coverage and possibly purchase new coverage considering your new status as a couple.

The most significant insurance product you may decide to purchase is life insurance. You have many choices when it comes to life insurance. Review your existing coverage, including your employee benefits package, if applicable, and policies purchased earlier in life. You may choose insurance coverage to replace your income in order to maintain the family's standard of living; to provide for dependents; to pay funeral expenses, debts and taxes on death; and even to make charitable donations. Consult a licensed insurance professional to help you evaluate your insurance needs as a couple.

## Family law and the breakdown of a relationship

At the start of a new relationship, you may be thinking about how to protect the assets you have worked hard to accumulate while considering how to share your assets with your new partner to enhance both your lives. It's important to understand the applicable family law legislation in your province or territory of residence so you will know what rules would affect you and your family in the event of a breakdown of your relationship.

### Family law and your relationship

Provincial and territorial legislation governs the division of property if your relationship breaks down or if one or both of you dies. These laws (or the federal *Divorce Act* if you are divorcing) also govern entitlement to spousal or child support. Keep in mind that the laws regarding property division and support rights on relationship breakdown may apply differently to couples, depending on whether they are married or common-law.

If you're married, depending on where you live, you may be required to divide family assets or share in the value of assets you accumulated during the marriage, on marriage breakdown. In some jurisdictions, common-law partners do not have the same statutory rights to divide family property as married spouses at the end of a relationship. A common-law partner may be able to leave the relationship with property held in sole name, subject to any equitable claims and remedies that can be sought in court to share in property held by their former partner.

When you enter a new relationship, it's a good time to execute, review and/or update your Will, beneficiary designations and powers of attorney.

### A domestic contract can provide protection

A domestic contract is a term that covers marriage contracts, cohabitation agreements, separation agreements and civil union contracts (in Quebec). A domestic contract can help protect your assets and offer an alternative to the default regime for property division in a particular jurisdiction if your relationship breaks down. You can also agree on a variety of subjects, including spousal support, matters relating to your children's education, religious upbringing, and, in some provinces and territories, custody and access issues (subject to the court's discretion to disregard a provision where the best interests of a child are not served).

Domestic contracts can be particularly important if you have considerable assets or children from a previous relationship that you want to provide for upon your death. Depending on your province or territory of residence, you may be able to execute a domestic contract before, during or at the end of your relationship. Creating a domestic contract at the start of your relationship can establish your financial expectations and may help you avoid future conflict by determining how assets will be divided in the event of a separation or on death.

## Will and estate planning

### Execute, review or update your estate planning documents

When you enter a new relationship, it's a good time to execute, review and/or update your Will, beneficiary designations and powers of attorney.

A common misconception is that your assets will automatically pass to your surviving spouse or common-law partner in the event of your death. In general, if you have not properly documented your wishes with respect to how you want your estate assets to be distributed on your death through a valid Will or beneficiary designation, you may be considered to have died "intestate" with respect to those assets. This means those assets will generally be administered under the provincial or territorial intestate succession legislation for the province or territory where you reside on death. Under these intestacy rules, it's possible that your spouse or common-law partner may not receive all of your estate assets. Moreover, in certain provinces and territories, your common-law partner may not even be entitled to any of your estate assets. It's therefore prudent to ensure you have a valid and up-to-date Will and estate plan that properly address

your estate planning objectives with respect to your new spouse or common-law partner.

If you had a Will prior to entering your current relationship, it's important to note that in certain jurisdictions, marriage cancels any Will prepared by either spouse prior to the union, unless the Will is made in contemplation of marriage. As such, your Will may no longer be valid. Even if your Will is still valid in your province or territory of residence, you may wish to update your Will to appoint your new spouse or common-law partner as an executor and/or beneficiary of your estate.

### Obligations to family members and other relationships

If you were previously married or in a relationship, you may have obligations to a former spouse or common-law partner and to children from that relationship. You may be required to provide ongoing support under the terms of a domestic contract or a court order. When you're reviewing your estate plan, you will need to factor in this kind of agreement and make provisions to accommodate these obligations both during your lifetime and afterward.

If you have been or will be providing financial support to someone during your lifetime, you will also want to take that into consideration when reviewing your estate plans with a qualified legal advisor to ensure you meet any obligations and make adequate provision for them, if necessary, on your death.

### Review your beneficiary designations on your registered plans and insurance policies

You may wish to review and update your beneficiary designations on your registered plans and life insurance policies when you enter a new relationship, to ensure they align with your current wishes. Separation and divorce do not revoke prior designations that you made on registered plan documentation or an insurance policy, so you may still have designations that you made in favour of a former spouse or common-law partner.

There may be tax benefits to designating your new spouse or common-law partner as the beneficiary on your registered plan. For example, if you name a spouse or common-law partner as a beneficiary of your registered retirement savings plan or registered retirement income fund, there may be an opportunity to defer tax on these proceeds on your death.

If you have a registered pension plan or a locked-in plan, your new spouse or common-law partner may have special rights to the funds in these accounts. The definition of spouse or common-law partner under pension legislation varies according to the jurisdiction that regulates the

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plan. When you begin a new relationship, review your beneficiary designations to ensure you understand what choices you have regarding pension plans and locked-in funds. This will help ensure that the beneficiary you choose receives your pension funds.

### Power of attorney

You and your new spouse or common-law partner may also wish to designate each other as attorney under powers of attorney (POA) for both property and personal care. These documents should be updated accordingly, particularly if you have, or your spouse or common-law partner has, prior POAs in place.

In most jurisdictions, a power of attorney is not automatically terminated if you separate or divorce, unless you expressly revoke it. If you have appointed a former spouse or common-law partner as your attorney, you may wish to review your power of attorney when you enter into a new relationship to determine if your existing document still reflects your wishes. It can be a demanding role, so choose someone who has aptitude for making financial or personal care decisions and who is willing to act in that capacity.

### Planning for your future

At the start of a new relationship, effective communication about your respective goals and expectations can lead to careful planning for your future together as a couple and may help prevent conflict later on. Full disclosure about your family and financial obligations is a key requirement at this stage and can prevent unnecessary confusion and expenditure down the road. It's also important to be informed about how the tax, family and succession laws apply in the jurisdiction where you live. Consult with professional advisors to ensure you make your decisions based on accurate and up-to-date information.

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