



# WILLS

# Matter

FULTON & COMPANY LLP

— celebrates 125 years —

## TWO THINGS ARE CERTAIN IN LIFE: DEATH & TAXES

There is a common misperception that British Columbia still has “death taxes”. In fact, these have been abolished for decades, though probate filing fees are still payable. You can’t escape taxes on death entirely, however. The primary type of taxes payable by a deceased person are income and capital gains taxes.

It is the Executor’s responsibility to file the tax returns on behalf of the deceased taxpayer. This can often be the most complicated part of administering an Estate.

There are at least three types of income tax returns that might need to be filed, and different filing deadlines apply for each.

Executors should also be aware that, under the Income Tax Act, they will be personally liable for any unpaid income taxes, interest and penalties that may be assessed against the deceased’s estate, unless the Executor has obtained a Clearance Certificate from Canada Revenue Agency, certifying that all amounts have been paid.

An Executor should not distribute any part of the estate to the beneficiaries until either a Clearance Certificate has been obtained or the beneficiaries have agreed that the Executor should hold back some estate funds to cover any income tax liability. When the latter option is used the executor’s Lawyer can assist to ensure the Executor is properly protected.

If you are an Executor and you do not ordinarily prepare your own income tax returns, or if the estate is more complicated than your own, it is generally not advisable for you to attempt to prepare the Estate returns. You might choose to have your Lawyer prepare the tax return or hire an Accountant to assist you. The costs associated with hiring a Lawyer or Accountant would depend on the complexity of the tax issues, and would be paid for by the estate, rather than out of the Executor’s own pocket.

### Contact Fulton & Company’s Wills & Estates Team

if you have any questions regarding wills or estate matters.

To view past articles, visit our web site.



BY DONALD KNAPP



BY DANIEL CARROLL



BY LEAH CARD



### WILLS & ESTATES LAWYERS

DONALD KNAPP	LEAH CARD
DENNIS HORI	EDWIN MARK
RICK HENEY	DAN CARROLL



300 - 350 Lansdowne Street, Kamloops, BC Phone: 250-372-5542 Fax: 250-851-2300

\*This article has been provided by Fulton & Company LLP for informational purposes only and is not to be relied upon as legal advice. For legal advice on specific cases, please contact Fulton & Company LLP.

www.fultonco.com