Borden Ladner Gervais

Family Wealth Counsel

SUMMARY

Making sure that you and your loved ones are protected is of the utmost importance. BLG's Family Wealth Counsel offer a full range of services to help you implement plans for your protection and the protection of dependent relatives in the event of death or incapacity. We offer you expertise in advising family-owned businesses on business succession, taking into account relevant taxation issues and other associated costs.

BLG's Family Wealth Counsel have substantial expertise in all facets of estate planning, with regard to domestic and offshore income tax issues and matrimonial issues. We can also advise you with the protection of a disabled child or relative. We offer the expertise to assist you in the role of a trustee of a trust, or as an executor or liquidator of an estate.

We have assisted clients on a range of disputes, including contested wills, trust and will interpretation, passing of accounts, variations and terminations of trusts, dependent's support and family patrimony claims, solicitor's negligence claims and capacity disputes. When disputes arise with regard to trusts, estates and incapable persons, we assist with reaching a satisfactory settlement through negotiation, which saves time, expenses, and preserves relationships and confidentiality. We have deep expertise in alternative forms of dispute resolution such as mediation and arbitration.

PUBLICATIONS

- Contributor, "ADR and Trusts: An international guide to arbitration and mediation of trust disputes," *Spiramus Press* Ltd., 2015.
- "BLG Recognized as a Leading Private Wealth Law Firm", September 2017
- "Measures Announced to Stop Tax Planning Strategies Involving Private Corporations", July 2017
- "Law Commission of Ontario ("LCO") released its Final Report on Legal Capacity, Decision-making and Guardianship", March 2017
- Samantha Breaks (SBreaks@blg.com) | Pamela Odina|Alex Klyguine, "No Need for Section 116 Clearance Certificate for Capital Distributions From An Estate to a U.S. Beneficiary", October 2016
- "Bill C-43 Impacts to Life Interest Trusts", February 2016
- "Bill C-43 Impacts to Charitable Donation Rules", February 2016
- "Department of Finance Acknowledges Concerns Regarding Tax Changes Coming into Force in 2016", November 2015
- "Joint Ownership: No Longer Simple", July 2015
- "Changes to Charitable Donation Rules for Estates", February 2015
- "Changes to the Use of Life Interest Trusts", February 2015
- "Loss of Graduated Rates, GREs and QDTs", February 2015
- "Transitional Rules for The Wills, Estates And Succession Act", July 2014
- "International Academy of Estate and Trust Law Elects André J. Barette to its Membership", April 2014

BLG EXPERTISE

- Melanie McDonald, "BLG partner Melanie McDonald named to Calgary's Top 40 under 40 List", November 2013
- Marie Audren, "Two BLG Lawyers Awarded Avocat émérite Distinction", September 2013
- "British Columbia's New Family Law Act and Implications for Discretionary Trusts", August 2013
- "Amendments to the Power of Attorney Act and Representation Agreement Act Effective September 1, 2011", September 2011
- "Compensation of Attorneys: Amendments to the Power of Attorney Act Effective September 1, 2011", September 2011
- "Amendments to the Power of Attorney Act - September 2011", September 2011
- "Wealth Management Bulletin - March 2011 - The End of the "Rule in Hastings-Bass"?", March 2011

REPRESENTATIVE WORK

- Goodall v. Schwobel, June 30, 2014 2014 ONSC 3993 – interpretation of Will trusts as to "ascertainable standard" for power of encroachment and applying duty of even hand so that capital of trusts would not be deemed part of estate of deceased U.S. beneficiary of U.S. tax purposes.
- Kapousouzian Estate v. Spiak April 14, 2014 2014 ONSC 2355 – identification of foreign heirs of deceased and interpretation of Will as regards devolution on partial intestacy.
- Skrobacky v. Frymer et al., 2012 ONSC 4277 – successfully represented the plaintiff in upholding a multi-million dollar payment from an estate (leave to appeal to the Divisional Court denied).
- Re. Vano 2011 ONSC 1429, correction at 2011 ONSC 2685, costs reported 2012 ONSC 262 - successfully represented an institutional trustee on a contested passing of accounts.
- Defended action against trustees with respect to the administration and investment management of a long-term trust (Bell v. Molson, 2012 QCCS 5498; on appeal to Quebec Court of Appeal).
- Represented liquidator of a Quebec and Bahamian estate, involving the enforceability of mutual wills (Reichman v. Kadar, 2014 QCCA 1180).
- Advised on multiple wills and conflict of law issues involving the law of succession of Quebec and of Spain.
- Advising high net worth individuals and professional athletes with respect to estate and marriage planning.
- Assisting executors in international multi-million dollar estate and trust administration and settlement
- Acted for CIBC Trust Corporation as proposed co-guardian, in obtaining Court approval of a Management Plan in a guardianship of property application (Abrams v. Abrams et al [August 5, 2011] Court File No. 03-003/08 (O.S.C.J.), per Penny, J.).

- Successful constitutional challenge on behalf of Québec common law spouse for right to support in case known as Lola v. Eric. (Droit de la famille - 102866, 2010 QCCA 1978; on appeal to Supreme Court of Canada).
- Represented trustees in a case on the law applicable to entitlement to accounting of Québec trusts administered in Alberta (Webster-Tweel v. Royal Trust Corporation of Canada, 2010 ABQB 139).
- Presented arguments on the Québec law of trust regarding the liquidation of defrauded investment unit funds constituted as trusts (Fonds Norbourg Placements Équilibrés (Re), [2006] R.J.Q. 1848, upheld on appeal).
- Developed innovative multiple wills strategies that have allowed our clients in British Columbia and Ontario to save significant probate fees.
- Acted for a foreign institutional trustee of an offshore trust with Canadian resident beneficiaries in a novel restructuring to minimize the incidence of Canadian tax.
- Acted for a spouse in a contentious marital breakdown in determination of entitlements where majority of assets held in trust vehicles.
- Created corporate and trust structures to successfully transfer wealth in a tax-efficient manner to successive generations while maintaining control with the family's business leaders.
- Counsel to the Children's lawyer in Re Kaptyn Estate.
- Act for Canadian and U.S. citizens on the cross border tax implications of their trust and estate plans, including the use of trusts to hold U.S. real property or securities.
- Advise donors and charitable foundations on the implications of various gifting and investment strategies including gifts of flow through and publicly listed securities, the use trusts to hold limited partnership interests, loans and guarantees by foundations and disbursement quota reform.

RANKINGS & RECOGNITIONS

The Family Wealth Counsel are recognized:

- In the 2018 edition of *The Best Lawyers in Canada®.*
- In the 2017 edition of *Chambers Canada – Canada's Leading Lawyers for Business*.
- In the 2018 edition of *Chambers HNW – The World's Leading High Net Worth Advisers*.
- In the 2018 edition of *The Canadian Legal Lexpert® Directory*.

PRACTICE LEADERS

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